

2004

# Town of Lyman Ordinances

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**LYMAN**  
**PLANNING BOARD**  
**LAND DEVELOPMENT**  
**AND**  
**SUBDIVISION**  
**STANDARDS**

**Amended as of July 21, 2004**

**Amended December 7, 2005**

**Revised March 16, 2011**

**Posted on Line May 20, 2011**

LYMAN PLANNING BOARD  
LAND DEVELOPMENT AND SUBDIVISION REGULATIONS  
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**Revised 3/16/2011**

The Lyman Land Development and Subdivision Regulations were completely reviewed and revised in the 2010/2011 and approved by the Lyman Planning Board on March 16, 2011.

Major changes include:

- Article 3, Subdivision Approval Criteria - Added Sections 13 through 23 to conform with revised Maine Statutes
- Article 4, Definitions – Revised to include definitions from Cluster Development Section, as well as add several definitions
- Article 8, Requirements - Added requirement to require a Homeowners Association for all subdivisions to fund responsibility for all subdivision common facilities, including fire water storage tanks
- Changed parts of some articles to conform with the Lyman Zoning Ordinance, adopted in June 2010

There were many editorial and format changes made to enhance consistency and readability of the document.

(Revised as of 3/16/2011)

## **LYMAN PLANNING BOARD LAND DEVELOPMENT AND SUBDIVISION STANDARDS**

### **ARTICLE 1 - PURPOSE**

- 1.1** The Planning Board of the Town of Lyman has the responsibility of planning for sound land use developments that will protect the public health and will enhance the environmental quality of our community and the land and water resources. At the same time, the Planning Board has the responsibility of planning for sound economic development in our town. The Planning Board also has the responsibility to plan so that individuals, landowners, prospective lot owners, taxpayers, and the town, are protected from ill-advised development that will add to the tax burden of the people of the town. The Planning Board strongly favors sound planned developments that show reasonable promise of providing benefits to the people of our town without unreasonable town expense.
- 1.2** The Planning Board has approved these Land Development and Subdivision Standards to provide reasonable regulations for subdivision development in the Town of Lyman in accordance with Maine State Planning and Land Use Laws.
- 1.3** Whenever a provision of these standards conflicts with or is inconsistent with another provision of these standards or any other ordinance, regulation or statute, the more restrictive provision shall control, unless otherwise indicated.

### **ARTICLE 2 – SUBDIVISION**

#### **2.1 Subdivision Defined**

A subdivision is the division of a tract or parcel of land into three or more lots within any five-year period, that begins on or after September 23, 1971, whether accomplished by sale, lease, development, building or otherwise, except when the division is accomplished by inheritance, order of the court, or gift to a relative, unless the intent of such gift is to avoid the objectives of these standards.

The term subdivision also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five year period, the construction or placement of three or more dwelling units on a single tract or parcel of land, and the division of an existing structure or structures previously used for commercial or industrial use into three or more dwelling units within a five year period.

The term subdivision shall include the division of land for residential and non-residential purposes, mobile-home parks, campgrounds and the re-subdivision of land.

## **2.2 Dividing Land Parcels**

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots, and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:

1. Both dividings are accomplished by a subdivider/applicant who has retained one of the lots for the subdivider/applicant's own use as a single family residence that has been the subdivider/applicant's principal residence for a period of at least the five years immediately preceding the second division; or
2. The division of the tract or parcel is otherwise exempt under Title 30-A M.R.S.A. Sections 4401-4407.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to these Subdivision Regulations, do not become subject to these Subdivision Regulations, by the subsequent dividing of that tract or parcel or any portion of that tract or parcel.

## **2.3 Additional Considerations and Exemptions**

The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent subdividing.

In determining whether a subdivision has occurred, land retained by the subdivider/applicant for his own use as a single family dwelling for a period of at least five years shall not be included in the computation of total lots created.

No sale or lease of any lot or parcel shall be considered as being part of a subdivision if such lot or parcel is 40 acres or more in size, except where such sale or lease is to avoid the objectives of these standards.

Proposed subdivisions approved by the Planning Board or Municipal Officers prior to September 23, 1971, in accordance with laws or regulations then in effect, and subdivisions in actual existence on September 23, 1970 that did not require approval under prior law shall be exempt from review. The division of a tract or parcel by sale, gift, lease, inheritance or order of the court into three or more lots and upon which lots permanent dwelling structures legally existed prior to September 23, 1971 is not a subdivision.

Refer to Title 30-A M.R.S.A. Sections 4401-4407 for additional information.

### ARTICLE 3 – SUBDIVISION APPROVAL CRITERIA

- 3.1 In approving subdivisions within the Town of Lyman, the Planning Board shall consider the following criteria from Title 30-A M.R.S.A. Section 4404, and before granting approval, shall determine that the proposed subdivision:
1. **Pollution.** Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider: The elevation of the land above sea level and its relation to the flood plains; the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable State and local health and water resources regulations;
  2. **Sufficient Water.** Has sufficient water available for the reasonably foreseeable needs of the subdivision;
  3. **Water Supply.** Will not cause an unreasonable burden on an existing water supply, if one is to be utilized; and will not unreasonably affect surrounding water supplies.
  4. **Erosion.** Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that dangerous or unhealthy conditions may result;
  5. **Traffic.** Will not cause unreasonable congestion or unsafe conditions with respect to use of highways, public or private roads, existing or proposed;
  6. **Sewage Disposal.** Will provide for adequate solid and sewage waste disposal;



7. **Municipal Solid Waste.** Will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste;
8. **Municipal or Governmental Service.** Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services;
9. **Aesthetic, Cultural and Natural Values.** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
10. **Conformity with Local Ordinances and Plans.** Is in conformance with duly adopted subdivision standards or ordinance, comprehensive plan, development plan, or land use plan;
11. **Financial and Technical Capacity.** The subdivider/applicant has adequate financial and technical capacity to meet the requirements of these Subdivision Standards.
12. **Surface Waters.** Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
13. **Ground Water.** Will not, alone or in conjunction with existing activities, adversely affect quality or quantity of ground water.
14. **Flood Areas.** The subdivider/applicant will determine if the subdivision is in a flood-prone area, based on Federal Emergency Management Agency's Flood Boundary and Flood Insurance Rate Maps, and state the determination on the Subdivision Plan. If the subdivision, or any part, is in a flood-prone area, the subdivider/applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision, and require that the principal structures be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation.
15. **Freshwater Wetlands/Vernal Pools.** Shall be identified on subdivision maps submitted as part of the application.
16. **Farmland.** Shall be identified on subdivision maps submitted as part of the application.

17. **Streams or Brooks.** Shall be identified on subdivision maps submitted as part of the application.
18. **Storm Water.** Shall provide for adequate storm water management.
19. **Spaghetti-lots.** Are prohibited. Refer to Title 12 M.R.S.A. Section 682-A.
20. **Lake Phosphorus Concentration.** Long-term cumulative effects of the subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
21. **Impact on Adjoining Municipality.** If the proposed subdivision crosses municipal boundaries, will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of public ways in an adjoining municipality in which part of the subdivision is located.
22. **Joint Municipality Meetings.** If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application shall be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the impact on adjoining municipalities. Refer to Title 30-A M.R.S.A. Section 4403.
23. **Lands Subject to Liquidation Harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, Section 8869, Subsection 14, or the Maine Forestry Service. Refer to Title 30-A M.R.S.A., Section 4404, Subsection 20, for details.

#### **ARTICLE 4 – DEFINITIONS**

- 4.1 In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Acre	A measure of land containing 43,560 square feet.
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Cluster Development	Cluster Development is the grouping of a particular development's residential structures on a portion of the available land reserving a significant amount of the site as protected open space.
Common Facility	Facility provided or installed by the developer for subdivision use, including open space; recreational areas; drainage, water and sewer treatment systems; and fire water storage tanks.
Comprehensive Plan or Policy Statement	Any part or element of the over-all plan or policy for development of the Town as defined in Title 30-A M.R.S.A., Sections 4301, Definitions and 4326, Growth Management Program Elements
Construction Drawings	Means drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures, etc.
Dwelling Unit	A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together as a family, containing living, cooking, eating, sleeping space and sanitary facilities.
Dwelling, Single Family	A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together as a family.
Engineer	Municipal Engineer or consulting engineer licensed by the State of Maine.
Final Subdivision Plan	The final drawings, on which the subdivider/applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed for record with the Municipal clerk and County Registry of Deeds.

Farmland	<p>A parcel consisting of 5 or more acres of land that is:</p> <p>A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or</p> <p>B. Used for the production of agricultural products as defined in Title 7 M.R.S.A., Section 152, Subsection 2.</p>
Freshwater Wetlands	<p>Freshwater swamps, marshes, bogs and similar areas which are:</p> <p>A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and</p> <p>B. Not considered part of a great pond, coastal wetland, river, stream or brook.</p> <p>These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this article.</p>
Great Pond	<p>Any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this article, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.</p>
Green Strip	<p>Existing vegetation on a subdivision lot before development.</p>
Homeowners Association	<p>An organization comprised of all owners of homes in the development/subdivision. The association shall be responsible for maintenance of all open space areas and other common facilities in the development/subbdivision. Refer to Articles 8.11 and 10.7.</p>
Legislative Body	<p>Town Selectmen or Town Meeting</p>

Liquidation Harvesting	The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.
Incorporated Town of Lyman	Town, City or Incorporated Village of Lyman.
Official Map	The map adopted by the Town of Lyman showing the location of public property, ways used in common by more than 2 owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the Town of Lyman or additions thereto resulting from the approval of subdivision plans by the Planning Board and the subsequent filing for record of such approved plans. Underground wiring and cable should also be put on final plot plan.
Open Space	The area required to be set aside and protected from development in a cluster subdivision.
Parcel	A contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.
Person	Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
Planning Board	The Planning Board of the Municipality created under Title 30-A, M.R.S.A., Chapter 187, Sections 4324-4326. This board is appointed by the Board of Selectmen to oversee Site Plan Review and Subdivision Regulations.
Preliminary Subdivision Plan	The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.
Re-subdivision	The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

Road	A public or private roadway with a minimum right-of-way width of fifty (50) feet, which provides the principal means of access to two or more abutting properties, consisting of a bed of exposed mineral soil, gravel asphalt, or other surfacing material constructed for the repeated passage of vehicles, as approved by the Town Engineer.
Road Frontage	That portion of a lot that runs along an interior subdivision roadway.
Spaghetti-Lot	A lot in a proposed subdivision with shore frontage on a stream, brook, or great pond with a lot depth to shore frontage ratio greater than 5 to 1. Refer to Title 12, M.R.S.A., Chapter 206-A, Sections 682 and 682A.
Streams or Brooks	<p>A channel between defined banks.</p> <p>A channel is created by the action of surface water and has 2 or more of the characteristics defined in Title 38, M.R.S.A., Chapter 3, Section 480-B, Subsection 9.</p> <p>"Streams or brooks" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.</p>
Utilities	Includes electrical power lines, telephone lines, cable television lines, water and sewer lines etc.
Utilities, Public	Utilities as regulated by the Maine Public Utilities Commission.

## **ARTICLE 5 - SUBMISSION OF PLANS**

- 5.1** There shall be submitted to the Planning Board a Preliminary Plan for study, and, if necessary, modification, and there shall be submitted a final plan. The Final Plan shall not be prepared until the subdivider/applicant has received approval of the Preliminary Plan from the Planning Board. Notice of approval of a Final Plan shall be given within thirty (30) days of submission of the Final Plan to the Planning Board. Until a Final Plan is approved, no development steps shall be undertaken on the site of the subdivision.

A public hearing shall be held following the acceptance of the Preliminary Plan. When the public hearing is ordered by the Planning Board, interested parties will be notified 10 days in advance of the hearing and public notices posted.

## **ARTICLE 6 - PRELIMINARY PLAN**

- 6.1** The Preliminary Subdivision Plan shall be submitted in nine (9) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than one hundred (100) feet, showing or accompanied by the following information:
- 6.2** Location Map - The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.

The Location Map shall show:

1. All the area within two thousand (2,000) feet of any property line of the proposed subdivision, or;
2. Any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the Location Map is at least five hundred (500) feet from any boundary of the proposed subdivision.

Within such area the Location Map shall show:

1. All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision.
2. Locations, widths and names of existing, filed or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph (1), above.
3. The boundaries and designations of zoning districts, school districts and parks or other public spaces.

4. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider/applicant's entire holding.

**6.3** Name of Subdivision, owner(s) deed reference to land subdivided, and engineer(s) surveyor(s).

Deed description and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points.

**6.4** Graphic scale of 1" equals 100 ft., date and North point.

**6.5** Boundaries of Tract

Number of acres within the proposed subdivision. Location of property lines, existing easements, buildings, watercourses and other essential existing physical features.

**6.6** Ownership and Location of abutting properties (showing present ownership).

**6.7** Name, location and width of all streets. All street names shown for proposed streets located in a subdivision shall be checked against local records to assure that none are duplicates of existing street names or so similar as to cause confusion and must be approved by the E911 Officer. Typical cross section of proposed street and sidewalk showing width, depth of gravel base and crushed gravel surface, and type of pavement.

**6.7.1** Acceptable cross section layout for proposed roads (see attached Exhibit "A").

**6.7.2** Profiles of proposed streets showing:

1. Existing ground elevations at centerline stations.
2. Finish grade line and numerical grades.
3. Percent of grade for each change of grade.
4. Length of vertical curves and external distances.
5. Non-Passing or Headlight sight distance.
6. Location and elevation of proposed culverts.

**6.8** Type, location, profile, and cross-section of all existing surface water drainage. Provisions for collecting and discharging storm drainage, in the form of a drainage plan. Preliminary designs of any bridges or culverts which may be required.



**6.9** Location of all existing utilities - water, gas, electricity or other connection with existing water supply or alternative means of providing water supply to the proposed subdivision.

**6.10** Location of test pits demonstrating that soils suitable for the construction of subsurface wastewater disposal systems exist on all lots.

Test pits shall be excavated in the presence of the Plumbing Inspector.

A signed voucher must be submitted and signed by the Plumbing Inspector stating:

1. Subdivision Name
2. Number of pits
3. General conditions found

The above information will be submitted by the Plumbing Inspector to the Planning Board.

A fee will be assessed by the Plumbing Inspector and payable to the Town of Lyman.

**6.11** Topography at two-foot intervals, unless otherwise prescribed by the Planning Board. In addition, the location of existing natural or man-made features influencing the layout of the proposed subdivision shall be shown.

**6.12** Lot lines and approximate dimensions.

**6.13** Proposed uses of property.

**6.14** Proposed public areas to be dedicated and the conditions of such dedication.

**6.15** The provisions of The Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.

**6.16** A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. The intensity of the study must identify changes in soil conditions down to one-eighth acre. A lot by lot soils suitability determination for house building with septic sewage disposal or, if appropriate, house building with public sewage disposal, will be made in accord with the Soil

Suitability Guide for Land Use Planning in Maine and will accompany the plot plan soils study.

- 6.17** The centerline of the proposed streets shall be staked and marked with preliminary plan stations in order to enable the Planning Board to readily locate and appraise the basic layout in the field.
- 6.18** A soil erosion and sediment control plan containing the endorsement of the York County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission.

Within (60) days after acceptance by the Planning Board, the Planning Board shall take action to give preliminary approval, with or without modifications, or disapprove such Preliminary Plan. The reasons for any modification required and the grounds for approval or disapproval shall be stated upon the records of the Planning Board and conveyed to the applicant in writing. Failure of the Planning Board to act within such sixty- (60) day period shall constitute disapproval of the Preliminary Plan.

## **ARTICLE 7- FINAL PLAN FOR SUBDIVISION**

### **7.1 Other Approvals**

#### **7.1.1 D.E.P. Approval**

Approval of the Final Subdivision Plan by the Maine Department of Environmental Protection is required if the subdivision:

1. Occupies a land area in excess of 30 acres, or
2. Involves a structure or structures, having in excess of 60,000 square feet of ground area coverage, or
3. Requires a permit from the Maine Department of Environmental Protection under some other regulation such as waste discharge or air quality, or
4. In any other way falls within the jurisdiction of and is subject to review by the Maine Department of Environmental Protection.

The approval of the Maine Department of Environmental Protection shall be secured in writing before official submission of the Final Subdivision Plan.

### **7.1.2 Water System Approval**

Water supply system proposals contained in the Final Subdivision Plan shall be approved in writing by:

1. The State of Maine, Department of Health and Welfare if the subdivider/applicant proposes to provide a central water supply system, or
2. A civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The Planning Board may also require the subdivider/applicant to submit the results of water quality tests as performed by the Maine Department of Health and Engineering.

Such approval shall be secured before official submission of the Final Plan.

Maintenance of a subdivision water supply system is the responsibility of the Homeowners Association.

### **7.1.3 Subsurface Wastewater Disposal System Approval**

Subsurface wastewater disposal systems shall be designed and constructed in accordance with current State of Maine subsurface wastewater disposal rules.

Such approval shall be secured before official submission of the Final Plan.

**7.2 Performance Guaranty:** The subdivision developer shall meet the following requirements:

**7.2.1 Form: Certified Check made payable to the Town of Lyman.** These funds will be deposited into an interest bearing escrow account in the name of the Town for this project. No permits shall be issued, or construction or site work begun, until funds are deposited into the escrow account.

**7.2.2 Amount:** Equal to 150% of the total cost of construction of all “required improvements”. The total cost of all required improvements will be based

on a construction cost “Schedule of Values” provided by the developer for review and approval by the Planning Board.

**7.2.3 Required improvements:** For the purposes of this section “required improvements” shall mean all site preparation, including but not limited to any public and private roads, all drainage structures and ditches, all erosion control measures, all common or public utilities and all required landscaping.

**7.2.4 Schedule of Values:** A construction cost breakdown of the various items of work in sufficient detail for the inspecting engineer or agent to determine the value of work completed and work remaining when the developer requests reductions in the amount of the performance guaranty. The Schedule of Values may be determined by the developer, the developer’s engineer or a general contractor and will be reviewed and possibly modified by the Town’s agent at the request of the Planning Board. As a minimum the Schedule of Values should address:

- Mobilization;
- Clearing & Grubbing;
- Erosion & Sediment Control;
- Stripping & Stockpiling Topsoil;
- Excavation/fill to sub grade;
- Rock Excavation;
- Stormwater Management Facilities;
- Community Water System;
- Community Sanitary Sewer System;
- Underground or Overhead Utilities (power, telephone, CATV);
- Aggregate sub base; Aggregate base;
- Riprap;
- Fire Tank (or pond & dry hydrant);
- Hot Bituminous Pavement – base course;
- Curb;
- Hot bituminous Pavement – surface course;
- Sidewalks;
- Striping;
- Street lights;
- Loam, seed, mulch & maintenance until grass is established;
- Monuments;
- Cleanup;
- Off-site improvements as applicable, and

- (Cluster development only) Restoration or development as play-fields of storage and stockpile areas in the open space area(s) of the cluster development.

**7.2.5 Timing:** Submit the Schedule of Values with the final plan for review prior to approval. Submit the performance guaranty within 45 days of approval and receive written authorization to proceed by the Municipal Officers prior to beginning work on the site. No permits shall be issued, or construction or site work begun, until funds are deposited into the escrow account.

**7.2.6 Escrow Reduction Requests:** Periodically, but no more than twice monthly, the developer may request reductions in the amount of the escrow account. The request shall be made to the Code Enforcement Officer (CEO) in writing and identify those items in the schedule of values for which reductions or partial reductions are requested. Prior to submission, if requested by the developer, or upon receipt of the request, the CEO or the Town's agent will visit the site to ascertain that the work for which the reduction is requested has been completed and render an opinion of the value of remaining work. The amount of the reduction will be based on retaining 150% of value of remaining work in the escrow account versus the value of work completed. The Town will not reduce the escrow account for materials stored on site and not incorporated into the work.

**7.2.7 Modifications to required improvements:** If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town's agent that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Town's agent may, upon approval of the CEO, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver of substantial or substantial alteration of the function of any improvements required by the Planning Board. The Town's agent shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Selectmen and the Planning Board. If modifications made under this section alter the approved subdivision plan by causing property lines or easements to be relocated, the plan shall be revised or become null and void in accordance with Article 7, Section 7.7.1. To ensure compliance with this section, one-third (33 1/3%) of the performance guaranty escrow account will be retained by the Town until a revised subdivision plan is reviewed and approved by the Planning Board.

- 7.2.8 Default:** If, upon inspection, the Town's agent finds that any of the required improvements have not been constructed in accordance with the approved plans and specifications the agent shall so report in writing to the CEO, Selectmen, Planning Board and the Developer. The Selectmen shall take any steps necessary to preserve the Town's rights under the performance guaranty. No subsequent plan for another project submitted to the Planning Board by a developer who is in default on a previously approved plan shall be approved until the default is corrected.
- 7.2.9 Maintenance:** The Developer shall maintain all improvements and provide snow removal on streets and sidewalks until a homeowners association assumes responsibility or the Town accepts the road and stormwater management facilities.
- 7.2.10 Release:** The performance guaranty shall not be completely released by the Selectmen until the Town's agent has completed a final inspection of the project and submitted a written report stating that all required improvements have been completed in accordance with the approved plans and specifications.

### **7.3 Inspection of Required Improvements**

Subdivision required improvements shall be inspected as follows:

- 7.3.1** At least five (5) days prior to commencing construction of required improvements the subdivider/applicant shall:
1. Pay an inspection fee equal to two (2) percent of the cost of the required improvements, or
  2. Pay an inspection fee equal to the estimated cost of inspection by an engineer appointed by the Planning Board, whichever is less, payable by check to the Town of Lyman stating the purpose of the fee. The subdivider/applicant shall notify the Municipal Officers in writing of the time when he proposes to commence construction of such improvements so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities.
- 7.3.2** If the Municipal Engineer or appointed engineer shall find that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider/applicant, he shall so

report to the Municipal Officers, Building Inspector and Planning Board. The Municipal Officers shall then notify the subdivider/applicant.

No plan shall be approved by the Planning Board as long as the subdivider/applicant is in default on a previously approved Plan.

- 7.3.3** If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Municipal Engineer or appointed engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Municipal Engineer or appointed engineer may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements. The Municipal Engineer or appointed engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- 7.3.4** The subdivider/applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.
- 7.3.5** Before a subdivider/applicant may be released from any obligation required by his guarantee of performance, the Planning Board will require certification from the Municipal Engineer or appointed engineer and whatever other agencies and departments that may be involved, to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances.

#### **7.4 Final Subdivision Plan**

The Final Subdivision Plan shall contain:

1. All the information required for the Preliminary Plan.
2. Existing and final proposed lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the subdivision. Final dimensions of lots shall be shown and areas per lot in square feet.
3. Sufficient data, such as road profile, USGS Datum Preferably NAD 83 Coordinates, cross-section radius of curves, angles of change in direction and center line length of all existing and/or proposed streets, other public

ways building lines and easements in the subdivision, to determine the exact location, direction, and length of every street line easement, lot line and boundary line and to reproduce these lines upon the ground.

4. Location of all permanent monuments existing and/or proposed.
5. Lot numbers and letters in accordance with the prevailing policy or as acceptable to assessors for tax purposes.
6. The name, registration number, and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.

## **7.5 Final Subdivision Plan Submission**

The Final Subdivision Plan package shall include:

1. Written offers of cession to the Municipality of all public open space shown on the Plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider/applicant are to be maintained.
2. Written evidence that the Municipal Officers are satisfied with the legal sufficiency of the documents referred to in Paragraph (1) above. Such written evidence shall not constitute an acceptance by the Municipality of any public open space referred to in Paragraph (1), above.

## **7.6 Final Approval and Filing**

**7.6.1** The Planning Board shall, within thirty (30) days from the public hearing, approve, modify and approve, or disapprove the Final Plan. The reasons for any modifications required or the grounds for approval or disapproval shall be stated on the records of the Planning Board and conveyed to the applicant in writing. Failure of the Planning Board to act within such thirty- (30) day period shall constitute disapproval of the Final Plan.

**7.6.2** Upon completion of the requirements in Articles 7.5 and 7.6.1 above and notation to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with the Municipal Officers. The Plan shall then be filed with the York County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall



become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days

- 7.6.3** At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the Plan. The subdivider/applicant may file a section of the approved Plan with the Municipal Officers and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider/applicant.

## **7.7 Plan Revisions after Approval**

No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Planning Board approves any modifications. In the event that a Final Plan is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Municipal Officers and the Registry of Deeds.

## **7.8 Public Acceptance of Streets, Recreation Areas**

- 7.8.1** The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Municipality of any street, easement, or other open space shown on such Plan.
- 7.8.2** When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

## **ARTICLE 8 - STANDARDS**

### **8.1 Town of Lyman Subdivision Ordinance Requirements**

- 8.1.1** Subdivisions must be above floodplain level in accordance with the current FEMA regulations.
- 8.1.2** Within the boundaries of the plan, each lot that is to be offered for sale, or is sold, must be such that any buyer, with or without a knowledge of the lot physical characteristics, will be able to build thereon, a reasonable abode with adequate access, and adequate sewerage disposal system.
- 8.1.3** When available, public water and public sewer services shall be provided.
- 8.1.4** Storm sewers, either closed or open, must be shown on the plan and must be adequate to carry the runoff generated by a 50 year rainfall event.
- 8.1.5** The public access roads included in the plan must be built by the applicant prior to the issuance of occupancy permits. The roads must meet the minimum specifications for roads as approved by the Town of Lyman and specified herein.
- 8.1.6** All lots within the subdivision shall be as specified in Article 6.2 of the Lyman Zoning Ordinance and lots within the Shoreland must comply with dimensional requirements of the Shoreland Zoning Ordinance Section 15.
- 8.1.7** Each lot in the General Purpose Zone must abut on a road with no less than 375 feet of frontage on said road and must have access at grades not exceeding 10% to the said road.

Each lot in the Residential Zone must abut on a road with no less than 300 feet of frontage on said road and must have access at grades not exceeding 3% to the said road.

### **8.2 Monuments**

- 8.2.1** Permanent monuments shall be set at all corners and angle points of the subdivision boundaries; and at all street intersections and points of curvature.

**8.2.2** Monuments defining the road right of way and the boundaries of the subdivision shall be stone 5"x 5" x 4' located and set at least 6" above final grade level, and indicated on the Final Plan. After they are set, drill holes, one-half inch deep shall locate the point or points described above.

**8.2.3** Monuments at internal lot corners and angle points may be number 5 rebar four feet long minimum, and capped to identify surveyor.

### **8.3 Street Signs**

**8.3.1** Streets, which join or are in alignment with streets of abutting or neighboring properties, shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the E911 Officer.

**8.3.2** Street name signs and traffic control signs shall be furnished and installed by the subdivider/applicant. The type, size and location shall be to the approval of the Road Commissioner.

### **8.4 Roads**

#### **8.4.1 Classification**

In accordance with the Comprehensive Plan of the Town of Lyman and for the purposes of these standards, roads are classified by function, as follows:

1. Major Roads: The term "Major Roads" includes Arterial roads which serve primarily as major traffic ways for travel between and through towns; and Collector roads, which serve as feeders to arterial roads, as collectors of traffic from minor streets and for circulation and access in commercial and industrial areas.
2. Minor Roads: Roads which are used primarily for access to abutting residential, commercial or industrial properties.

#### **8.4.2 Road/Street Specifications**

Right-of-way to be fifty (50) feet in width. Roads will have a minimum pavement width of twenty four (24) feet, with four (4) feet being

designated as a walking lane, and minimum shoulder width of three (3) feet. Gravel base shall be twenty-four (24) inches in depth consisting of twenty-two (22) inches of bank-run or processed gravel meeting the requirements of Maine Department of Transportation (MDOT) Standard Specifications, Highways and Bridges, section 703.06(b) Type D, and two (2) inches of crushed gravel meeting the requirements of MDOT 703.06 (a) Type A. If the Planning Board requires a raised sidewalk (see Section 8.5).

The following changes in the gravel base specifications will be considered by the Planning Board.

1. Where the existing material is clean well-drained sand or gravel, the existing material may be substituted for the lower six- (6) inches of gravel base.
2. If the existing material is clay or silt loam, a base stabilization material shall consist of twelve (12) inches of clean sharp durable sand which compacts readily, sixteen (16) inches of bank run gravel, N/L/T 8", and two (2) inches of crushed gravel surface.

#### **8.4.3 Clearing**

Before any clearing has started the right of way of the new road shall be flagged.

Before grading is started, an area sufficient for the construction of the road embankments, back slopes and drainage facilities shall be cleared of stumps, roots, brush and objectionable material.

The subgrade shall be graded and crowned to effectively drain the subgrade.

Hot Bituminous pavement shall meet the standards specified in the State of Maine Department of Transportation, Highways and Bridges.

#### **8.4.4 Layout**

**8.4.4.1** Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Town under conditions approved by the Planning Board.

**8.4.4.2** In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial

use is contemplated by the Town of Lyman, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width less than 60 feet nor have less than 2 twelve-foot travel lanes and 2 eight-foot parking lanes.

- 8.4.4.3** Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- 8.4.4.4** Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider/applicant shall be required to show areas for widening or realigning such roads on the Plan, marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the Plan when a proposed widening or realignment is shown on the Official Map. Land reserved for such purposes may not be counted in satisfying setbacks or yard or area requirements of the Zoning Ordinance.
- 8.4.4.5** Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets (street parallel to arterial street providing access to adjacent lots), reverse frontage (that is, frontage on a street other than the existing or proposed arterial street) with screen planting contained in a non-access reservation along the rear property line, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- 8.4.4.6** Subdivisions containing fifteen (15) lots or more shall have at least two street connections with existing public streets or streets shown on the Official Map if such exists, or streets on an approved Subdivision Plan for which an Escrow Account has been established.
- 8.4.4.7** Entrances onto existing or proposed collector streets shall not exceed a frequency of one per 400 feet of street frontage.

Entrances onto existing or proposed arterial streets shall not exceed a frequency of one per 1000 feet of street frontage.

**8.4.4.8** Minor Roads in the subdivision shall be laid out so that their use by through traffic will be discouraged.

**8.4.4.9** Grades of all streets shall conform in general to the terrain.

**8.4.4.10** Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting streets shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

**8.4.4.11** A dead end street shall not exceed 1600 feet in length and shall be provided with a suitable cul-de-sac. Said turning circle shall have a minimum outside radius of 65 feet.

**8.4.4.12** All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surfaces.

**8.4.4.13** Side slopes shall not be steeper than 3 feet horizontal (H) to 1 foot vertical (V) except in wetlands and in other areas where circumstances make steeper slopes more practical or desirable. The Planning Board shall review requests for waivers from the 3 feet horizontal to 1 foot vertical standard considering the following criteria:

- Public safety
- Integrity of the road embankment and back slopes
- Maintenance costs and responsibility

Upon a finding that the steeper side slopes meet the purpose of these standards under Article 1, Section 1.1 and Article 3, Sections 3.2.5 Traffic, 3.2.8 Municipal or Governmental Service, and 3.2.9 Aesthetic, Cultural and Natural Values, the Planning Board may waive this standard.

**8.4.4.14** Streets shall be rough-graded to the full width of the right-of-way.

- 8.4.4.15** Street curbs and gutters shall be required on all streets within Maine State Highway Commission defined urban areas and shall be required at the discretion of the Planning Board in rural areas.
- 8.4.4.16** Where curb and gutter are not required, stabilized shoulders and proper drainage shall be the responsibility of the subdivider/applicant in compliance with the requirements herein.
- 8.4.4.17** All roadways within the subdivision shall be constructed according to road specifications herein as overseen by a licensed Civil Engineer.
- 8.4.4.18** Occupancy Permits may only be issued upon completion of the base coat of pavement of all subdivision roads.

#### **8.4.5 Planting**

- 8.4.5.1** All esplanade or planting strip areas at sides of streets shall receive at least 6 inches of compacted screened loam-free of stones over one inch in diameter. Base materials shall be removed prior to placement of topsoil.
- 8.4.5.2** Planting strips to be limed at the rate of one pound per ten sq. feet and fertilized at the rate of one pound of a 10-10-10 fertilizer per fifty sq. feet or equivalent and seeded with a conservation mix endorsed by the York County Soil and Water Conservation District.
- 8.4.5.3** When required by the Planning Board, street trees shall be planted in the esplanade areas of all new streets.
- 8.4.5.4** Trees of the 1<sup>st</sup> magnitude (e.g., Birch, Beech, Linden, Oak, Pine, Sugar Maple, Basswood) shall be planted at 40-60 foot intervals.
- 8.4.5.5** Trees of the 2<sup>nd</sup> magnitude (Hawthorn, Flowering Crabapple, etc.) may be planted at intervals of less than 40 feet.

## **8.5 Sidewalks**

**8.5.1** If required by the Planning Board, sidewalks shall be installed at the expense of the subdivider/applicant where the subdivision abuts or fronts onto a major street, and along all subdivision roads.

**8.5.2** Sidewalks when installed shall meet the minimum requirements as follows:

1. The gravel base shall not be less than six (6) inches in thickness.
2. The crushed gravel surface course with 100 per cent passing the 1.25 inch screen shall not be less than two (2) inches in thickness.
3. The Hot Bituminous/ Hot-Top/ Concrete surface shall be less than two (2) inches in thickness after compaction.

## **8.6 Water Supply**

**8.6.1** A public water supply system with fire hydrants, or a system of fire Protection acceptable in writing by the Fire Department, shall be installed at the expense of the subdivider/applicant, or, if in the opinion of the Planning Board, service to each lot by a public water system is not feasible, the Planning Board may allow individual wells to be used, which shall likewise be installed at the expense of the subdivider/applicant.

**8.6.2** The subdivider/applicant shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water meeting Public Health Service, Drinking Water Standards, 1962, can be supplied to the subdivision at the rate of at least 350 gallons per day per dwelling unit and at an adequate pressure for fire fighting purposes, if applicable.

**8.6.3** Water storage shall be provided as necessary to meet peak domestic demands and fire protection needs as specified by the Fire Department. The developer shall provide for the construction of underground storage facility(s) for fire protection. Size and the number of facilities required shall be determined by the Planning Board based on Fire Department recommendations.



- 8.6.4** The subdivider/applicant shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports proposed by a civil engineer registered in the State of Maine, that the proposed subdivision will not result in an undue burden on the source, treatment facilities or distribution system involved, or provide adequate assurance that such source, treatment facility or distribution system will be modified to meet the expanded needs.
- 8.6.5** The minimum water-main permitted shall be 6-inch and shall be installed at the expense of the subdivider/applicant, if or when applicable.
- 8.6.6** The water supply system shall be designed, and installed in accordance with requirements of the Maine Department of Health and Engineering.
- 8.6.7** All subdivisions are required to provide drilled wells.
- 8.6.8** If a central water supply system is provided by the subdivider/applicant, location and protection of the source, and design, construction, and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the Manual for Evaluation Public Drinking Water Supplies, Public Health Service No. 1180 (1969) or revisions to the most recent dates.
- 8.6.9** Maintenance of central water distribution, water storage, and underground storage facility(s) for fire protection shall be the responsibility of the Homeowners Association.

## **8.7 Sewage Disposal**

- 8.7.1** A sanitary sewer system shall be installed at the expense of the subdivider/applicant, or, if in the opinion of the Planning Board, service to each lot by a sanitary sewer system is not feasible, the Planning Board may allow individual septic tanks to be used, which shall likewise be installed at the expense of the subdivider/applicant. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning in Maine.

- 8.7.2** A developer shall submit plans for sewage disposal designed by a professional civil engineer in full compliance with the requirements of the State of Maine Plumbing Code.
- 8.7.3** Where a public sanitary sewer line is located within 1500 feet of a proposed subdivision at its nearest point, the subdivider/applicant shall connect with such sanitary sewer line with a main not less than 8 inches in diameter, provided the appropriate municipal agencies certify that extending the services will not be a burden on the system.
- 8.7.4** Maintenance of a subdivision sanitary sewer system shall be the responsibility of the Homeowners Association.

## **8.8 Surface Drainage**

- 8.8.1** Where a subdivision is traversed by a watercourse, drainage way or storm drain pipe, or where the Planning Board determines that runoff from the developed subdivision should be controlled for the protection of the subdivision and owners of property abutting it, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such subdivision and over the property of owners abutting upon it, of such nature, width and location as the Planning Board or Municipal Engineer deems adequate or other agency or firm designated by the Town. All cost incurred for the review to be paid by the developer.
- 8.8.2** The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in adjacent properties. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements.
- 8.8.3** Topsoil shall be considered part of the subdivision. Except for surplus topsoil for roads, parking areas and building excavations, it is not to be removed from the site.
- 8.8.4** Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Planning Board, at its discretion, may require a developer to take additional measures to correct and prevent soil erosion in the proposed subdivision.

- 8.8.5** The Town of Lyman Shoreland Zoning Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, or upland edge of a freshwater wetland, and all areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

Refer to the Shoreline Zoning Ordinance, Article 15, Land Use Standards; Sections : P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting, Q. Erosion and Sedimentation Control, and R. Soils, for requirements to prevent soil erosion and restrictions on tree cutting in the shoreline zone.

## **8.9 Storm Drainage Design Standards**

- 8.9.1** Adequate provision shall be made for the disposal of all storm water collected in the streets and areas tributary to the street system and underground water, through ditches, culverts, underdrain and/or storm water drainage systems.
- 8.9.2** All stormwater management systems shall be designed by a professional engineer registered in the State of Maine to accommodate the flow generated by a rainfall with a 25-year frequency as determined by the Maine Department of Environmental Protection (DEP) under Title 38 M.R.S.A., Chapter 3, Sections 481-490, Site Location of Development (Site Law) or Title 38 M.R.S.A., Chapter 3, Section 420-D (Stormwater Law), stormwater management systems and facilities shall be designed as required by those laws.
- 8.9.3** An underdrain system, designed by a professional engineer registered in the State of Maine shall be installed to properly drain all springs or areas where the ground water would cause a hazard to the stability of the road base.
- 8.9.4** The subdivider/applicant shall demonstrate to the satisfaction of the Planning Board that the storm drainage from upstream areas and the proposed subdivision will not, in any way, overload existing downstream drainage systems.
- 8.9.5** That all provisions of this section have been met shall be attested by the signature and stamp of a professional engineer registered in the state of Maine.

## **8.10 Storm Drainage Construction Standards**

- 8.10.1** Materials utilized for storm drainage construction shall be in conformity with State of Maine Specifications for Highway and Bridges, using the most current edition at time of construction.
- 8.10.2** Cross culverts shall not be less than fifteen (15) inches in diameter with a minimum of eighteen (18) inches of cover between the top of the culvert and the road surface. Driveway culverts shall not be less than twelve (12) inches in diameter with a minimum cover of twelve (12) inches between the top of the culvert and the driveway surface.
- 8.10.3** Drainage shall be straight in both vertical and horizontal alignment.
- 8.10.4** Catch basins shall be installed at all changes in vertical and horizontal alignment, and at all junctions. In straight runs, catch basins shall be placed at a maximum of 300-foot intervals. Catch basins shall have free flow outlets and shall not act as dry wells.

## **8.11 Homeowners Association**

1. An organization comprised of all owners of homes in the development/subdivision, designated as a Homeowners Association, shall be responsible for maintenance of all open space areas and other common facilities in the development/subbdivision.
2. A homeowners association must be formed, and the bylaws of the homeowners association must specify maintenance responsibilities for the development and the open space, if any. The bylaws must be reviewed by the Planning Board and the Town Attorney and any necessary changes made prior to the Planning Boards approval of the development plan.
3. All owners of lots within the development shall be required to be members of the homeowners association. Each lot deed in the development shall include a covenant setting forth the requirements of membership in the association, together with rights and interest in any open space and common facilities. The covenant shall be reviewed and approved by the Planning Board and the Town Attorney. There shall be a note included on the subdivision plan setting forth the requirement of membership in the homeowners association.

4. The homeowners association shall be responsible for maintaining any open space and any other common facilities, including sanitary sewer system, water storage and distribution system, and underground storage facilities for fire protection.
5. The developer shall be a member of the homeowners association and responsible for each unsold lot in the cluster development. The developers' membership in the Association may be terminated once all of the lots are sold by sending a written notice to the Lyman Planning Board and the Association stating that all the lots are sold, along with the date of the last sale, and the name (s) of the new owner (s).
6. The homeowners association must levy fees against all property owners to defray the expenses connected with the maintenance of any undeveloped land, and other common and recreational facilities and easements.

## **ARTICLE 9 - GENERAL REQUIREMENTS**

### **9.1 General Requirements**

In reviewing applications for the subdivision of land, the Planning Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

### **9.2 Subdivision Plan Shall Conform to Comprehensive Plan**

Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

### **9.3 Relationship of Subdivision to Community Services**

**9.3.1** Any proposed subdivision shall be reviewed by the Planning Board with respect to its effect upon existing services and facilities. The Final Plan shall include a list of the construction items that will be completed by the developer prior to the sale of lots; and the list of construction and maintenance items that may be borne by the municipality, which shall include, but not be limited to:

- Schools, including busing

- Road maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps

**9.3.2** The Planning Board shall further require the developer of a Subdivision to provide accurate cost estimates to the town for the above services, and the expected tax revenue of the subdivision.

#### **9.4 Retention of Proposed Public Sites and Open Spaces**

**9.4.1** Depending on the size and location of the subdivision, the Planning Board may require the developer to provide up to 10% of his total area for recreation. It is desirable that areas reserved for recreation be at least 5 acres in size and easily accessible from all lots within the subdivision.

**9.4.2** Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreation purposes, such as a playground or a playfield, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Planning Board may deem suitable and shall have no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Planning Board with regard to scenic attributes to be preserved together with sufficient areas for trails, lockouts, etc. where necessary and appropriate.

**9.4.3** Where the proposed subdivision is located on a lake, pond, or stream, a portion of the waterfront area, when feasible, shall be included in the reserved land. The land so reserved shall be at least 200 feet wide measured perpendicularly from the normal high water mark.

**9.4.4** If the Planning Board determines that the reservation of land for parks and/or recreational purposes would be inappropriate, the Planning Board may waive the requirement of land reservation on the condition that the subdivider/applicant deposits a cash payment in lieu of land reservation with the town clerk. Such payment shall

be placed in a trust fund to be used exclusively for the purchase and development of neighborhood sites for parks, playgrounds and other recreational purposes. The amount of such payment shall be determined on a case basis for each lot approved on the Final Plan.

- 9.4.5** The Planning Board may further require that the developer provide space for future municipal uses, in accordance with a Comprehensive Plan or Policy statement, on a reimbursable basis with a finite term option as determined by the Planning Board, after which the space may be sold for other development.

## **9.5 Preservation of Natural and Historic Features**

The Planning Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

## **9.6 Land Not Suitable for Development**

- 9.6.1** The Planning Board shall not approve such portions of any proposed subdivision that:

1. Are situated below sea level
2. Are located on land which must be filled or drained or on land created by diverting a watercourse: except the Planning Board may grant approval if a central sewage collection and treatment system is provided. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal wetlands or filled or drained Great Ponds (natural body of water 10 acres or more in size).
3. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine. Where soils are rated fair for septic sewage disposal, the minimum lot size shall be one acre, 43,560 square feet.

## **9.7 Shoreland Zoning Requirements**

Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river or tidal waters, a proposed subdivision shall conform to the requirements of the Town of Lyman Shoreland Zoning Ordinance.

## **9.8 Lots**

**9.8.1** The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated as regulated by local ordinances.

**9.8.2** Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated as regulated by local ordinances.

**9.8.3** The subdividing of the land shall be such as to provide that all lots shall have a minimum frontage as required by the zoning district requirements.

**9.8.4** Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

**9.8.5** Side-lot lines shall be substantially at right angles or radial to street lines.

**9.8.6** Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which a subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these standards.

**9.8.7** All sections of Section 9.8 must conform to local zoning ordinances.

## **9.9 Utilities**



**9.9.1** The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc. shall be approved by the Planning Board and installed in accordance with local Building Codes and Regulations.

**9.9.2** Utilities shall be installed underground except as otherwise approved by the Planning Board.

## **9.10 Additional Requirements**

**9.10.1** Street trees, esplanades, and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider/applicant as construction of the subdivision progresses.

**9.10.2** The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least 20 feet wide between abutting properties that are so endangered.

## **ARTICLE 10 – CLUSTER DEVELOPMENT STANDARDS**

### **10.1 Purpose:**

The purpose of cluster development is to encourage the preservation of the rural character of the Town of Lyman by preserving undeveloped land, to include forested land, farmland and other undeveloped land within the Town. This can be accomplished by allowing cluster type development, which allows homes to be built on lots which are smaller than required in the district, but requires undeveloped land to be preserved. In a cluster development streets and utility lines are usually shorter, thus allowing development at a lower construction cost initially and lower maintenance costs in the future.

### **10.2 Location and Density:**

Cluster Development in accordance with this section shall be allowed in the Residential District, the Commercial/Residential District and the General Purpose District, but not within a FEMA mapped flood zone. Cluster developments are not allowed within the Shoreland District. Land within the shoreland district may be used in calculating the allowed density for a project that is located partially within the Shoreland District and partially outside of it, but no cluster development shall occur within the Shoreland District.

Cluster development shall mean a development of single family detached residential homes that permits lots with dimensions, frontages and setbacks reduced from conventional lot sizes, provided that the density of the tract as a whole shall not be greater than the density allowed by the zoning district for non-cluster development, and the remaining area is retained as permanently preserved open space. The Planning Board must determine that the cluster approach will provide a development plan which provides open space, and prevents the loss of natural features.

### **10.3 Application Procedure:**

1. In order to qualify for consideration under this Article, two plans must be submitted with one plan showing a standard subdivision and the second as a clustered development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and width requirements of the ordinance for the zoning district in which it is located, and if not serviced by public sewer, shall have an area (s) suitable for subsurface waste water disposal according to the Maine Subsurface Wastewater Disposal Rules.

The number of allowable lots or dwelling units (Net Residential Acreage) in the cluster development shall in no case exceed the number of lots or dwelling units permitted in the standard subdivision as shown on the plan submitted.

2. The net residential acreage is calculated by taking the total area of the lot and by subtracting from that area the following:
  - A. Portions of the lot covered by surface water
  - B. Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Maps prepared by the Federal Emergency Management Agency. Or by using a FEMA letter of map

amendments known as a LOMA, or a letter of map revision known as a LOMR.

- C. Portions of the lot subject to a right-of-way (s)
- D. Portions of the lot to be used for roads and parking.

3. Site Design Standards:

- A. Cluster development must meet all requirements for a subdivision other than those zoning standards that may be modified under this Article, and all other applicable town ordinances.
- B. Each building must be an element of the overall plan for site development. The developer must specify the placement of building envelopes and the treatment of open spaces, paths, roads, utility service, and parking.
- C. A high-intensity soil survey must be submitted. No building may be constructed on soil classified as being very poorly drained.
- D. No building shall be located within 100 feet of a waterbody or wetlands.
- E. No house lot for a single family dwelling shall be smaller than 43,560 square feet or larger than 55,000 square feet in the Residential and Commercial/Residential Districts, with no less than 75,680 square feet of additional land set aside as open space to total no less than three (3) acres per single-family dwelling. The land to be set aside for open space purposes does not have to be contiguous with the house lot, provided that the required amount of land for each lot is located somewhere on the parcel to be developed as a cluster.
- F. No house lot for a single family dwelling shall be smaller than 43,560 square feet or larger than 55,000 square feet in the General Purpose District with no less than 162,800 square feet of additional land set aside as open space to total no less than five (5) acres per single-family dwelling. The land to be set aside for open space purposes does not have to be contiguous with the house lot, provided that the required amount of land for each lot is located somewhere on the parcel to be developed as a cluster.

- G. All open space shall be considered common land and the interest shall be divided equally among all land owners.
- H. Road frontage shall not be less than 150 feet or more than 200 feet for each house lot
- I. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
- J. The developer shall provide for the construction of underground storage facility(s) for fire protection. Size and the number of facilities required shall be determined by the Planning Board based on Fire Department recommendations. Maintenance of this facility is the responsibility of the Homeowners Association.
- K. Utilities must be installed underground.
- L. The location of all subsurface wastewater disposal systems and an equivalent reserve area for replacement systems must be shown on the plan. The reserved areas must be deed restricted with language not allowing any construction such as decks, storage buildings, pools and the like within the replacement area. Subsurface wastewater disposal systems and the reserved area for replacement systems shall not be located in the required open space area.
- M. The report of a licensed Site Evaluator must accompany the plan. If the subsurface disposal system is an engineered system, approval from the State Department of Health Engineering must be obtained prior to Planning Board approval.
- N. In order to meet state requirements for separation distances between drinking water wells and septic systems, private drinking water wells may be located in areas designated as open space if the Local Plumbing Inspector (LPI) determines that there is no other way to meet the code requirements.

#### **10.4 Creation and Maintenance of Open Space and Any Common Facilities.**

1. The open space is that area which is not included in the residential lots. There shall be no further subdivision of the open space. The open space may be used only for agriculture, forestry conservation, or non-commercial recreation. However, easements for public utilities, or

structures accessory to non-commercial recreation may be approved by the Planning Board after review.

2. Upland areas of the open space may be used as storage or stockpile areas during construction of the cluster development provided that such area(s) is (are) either restored to a condition similar to that which existed prior to commencement of the development or developed into a field for active recreation in accordance with the requirements of Sections 10.5 and 10.6.

### **10.5 Restoration**

1. The applicant shall delineate the limits of stockpile and storage areas on the Subdivision Plan.
2. The applicant shall take photographs of the area to be used for storage and stockpiling and submit them to the Planning Board with the Preliminary Plan.
3. The applicant shall provide a restoration plan or plans of storage and stockpile areas specifying grading, topsoil specifications (source, composition & depth) and plantings (grass, trees and under story plantings).

### **10.6 Development of Fields for Active Recreation.**

1. The applicant shall delineate limits of stockpile and storage areas on the Subdivision Plan.
2. The applicant shall provide a plan or plans of storage and stockpile areas to be developed as play-fields specifying grading, topsoil specifications (source, composition & depth), grass seed mix with application rate. The field(s) shall be graded to drain and the cross slope shall not exceed two (2) percent.
3. The applicant shall specify a maintenance schedule (mowing, raking, reseeding as necessary) and maintenance responsibilities that shall be included in the Homeowners Association documents.
4. There shall be a separate item in the schedule of values provided with the performance guaranty described in Article 7, section 7.2 of the Town of Lyman Subdivision Standards for the restoration or development as play-fields of storage and stockpile areas in the open space area(s) of the cluster development. The money in the escrow

account for this item shall not be released by the Town of Lyman until the restored area(s) or area(s) developed as play-fields are completed to the satisfaction of the Code Enforcement Officer and the Town Engineer.

5. The open space shall be shown on the development plan, with the appropriate notation(s) that indicate:
6. That the open space shall not be subdivided or used for future buildings development; and
7. That the homeowners association shall own and maintain the open space.

#### **10.7 Homeowners Association.**

Refer to the requirements of Article 8.11, Homeowners Association.

#### **10.8 Buffering**

1. That portion of the cluster development which abuts a street or road not in the cluster development and areas along the exterior boundaries of the cluster development must be designed as a continuous landscaped buffer area not less than 75 feet in width. This buffer area may contain no structures or streets other than a street providing access to the cluster development. The first 50 feet of the buffer strip, as measured from the exterior boundaries of the development must contain natural vegetation.
2. No structure may be built within 75 feet of the internal road or street right of way boundary in a cluster development.
3. No structure may be built within 40 feet of an internal side or rear property line.

**All other standards within the Town of Lyman Land Development and Subdivision Standards shall apply to Cluster Housing Development Standards**

## **ARTICLE 11 - ENFORCEMENT**

- 11.1** No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such Final Plan by the Planning Board.
- 11.2** No person, firm, corporation or other legal entity may sell, lease, convey for consideration, or offer or agree to sell, lease or convey for consideration any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- 11.3** When a violation of any provision of these Subdivision Standards, or any other Local, State, or Federal Land Use regulation is found to exist, the Municipal Officers may designate the Code Enforcement Officer or the Town Attorney or both to institute any and all actions and proceedings that are equitable and appropriate to enforce any and all Ordinances and Regulations using Title 30-A M.R.S.A. Section 4452, Enforcement of Land Use laws and Ordinances, and Rule 80K of the Maine Rules of Civil Procedure.
- 11.4** Any person, firm or corporation being the owner or having control or use of any building, premises, property or the like who violates any provision of these Subdivision Standards, if found guilty, shall be subject to civil penalties as per Title 30-A M.R.S.A. Section 4452, Enforcement of Land Use laws and Ordinances.
- 11.5** No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
- 11.6** Not only is making a subdivision without Planning Board approval a violation of law, but also within such subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in these standards, and until the original copy of the Final Plan so approved and endorsed has been duly recorded in the York County Registry of Deeds.

## **ARTICLE 12 – WAIVERS AND MODIFICATIONS**

- 12.1** The subdivider/applicant may submit written justification to the Planning Board for a waiver to/modification of these Subdivision Standards. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Subdivision Plan, it may modify these standards so that substantial justice may be done and the public interest secure; provided that such modifications will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Zoning ordinance.
- 12.2** Where the Planning Board finds that, due to special circumstances of a particular Plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- 12.3** In granting waivers and/or modifications, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

## **ARTICLE 13 - APPEALS**

- 13.1** An appeal from a decision of the Planning Board may be taken to a Zoning Board of Appeals. Refer to the Lyman Zoning Ordinance, Article 9.7, Appeals for details.

## **ARTICLE 14 - SEPARABILITY AND EFFECTIVE DATE**

1. These standards shall take effect immediately on adoption of the same by the Planning Board or legislative body.
2. The invalidity of any provision of these standards shall not invalidate any other part.



## 44



**NEXT TO BE CALLED**

MUNICIPALITY OF LYMAN, MAINE

ORDINANCE  
EXEMPTING ELIGIBLE ACTIVE DUTY MILITARY PERSONNEL  
FROM VEHICLE EXCISE TAX

Section 1. Authority.

This ordinance is enacted pursuant to 36 M.R.S.A. § 1483-A, which expressly authorizes such ordinances.

Section 2. Excise tax exemption; qualifications.

Vehicles owned by a resident of this municipality who is on active duty serving in the United States Armed Forces and who is either permanently stationed at a military or naval post, station or base outside this State or deployed for military service for a period of more than 180 days and who desires to register that resident's vehicle(s) in this State are hereby exempted from the annual excise tax imposed pursuant to 36 M.R.S.A. § 1482.

To apply for this exemption, the resident must present to the municipal excise tax collector certification from the commander of the resident's post, station or base, or from the commander's designated agent, that the resident is permanently stationed at that post, station or base or is deployed for military service for a period of more than 180 days.

For purposes of this section, "United States Armed Forces" includes the National Guard and the Reserves of the United States Armed Forces.

For purposes of this section, "deployed for military service" has the same meaning as in 26 M.R.S.A. § 814(1)(A).

For purposes of this section, "vehicle" has the same meaning as in 36 M.R.S.A. § 1481(5) and does not include any snowmobiles as defined in 12 M.R.S.A. § 13001.

Section 3. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect unless and until it or 36 M.R.S.A. § 1483-A is repealed.

Adopted June 12, 2012

**TOWN OF LYMAN  
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

Adopted October 3, 2011

**PREAMBLE**

WHEREAS, the 124<sup>th</sup> Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Town of Lyman (the "Town") wishes to establish a PACE program; and

NOW, THEREFORE, the Town hereby enacts the following Ordinance:

**ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

**Section 1 - Purpose.**

By and through this Ordinance, the Town declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

**Section 2 - Enabling Legislation.**

The Town enacts this Ordinance pursuant to 35-A M.R.S.A. § 10151, *et seq.*

**ARTICLE II - TITLE AND DEFINITIONS**

**Section 3 - Title.**

This Ordinance shall be known and may be cited as the "Town of Lyman Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance").

#### **Section 4 - Definitions.**

Except as specifically defined below; words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

**1. Energy saving improvement.** "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- A. Will result in increased energy efficiency and substantially reduced energy use and:
  - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
  - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. Municipality.** "Municipality" shall mean the Town of Lyman.

**3. PACE agreement.** "PACE agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**4. PACE assessment.** "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

**5. PACE district.** "PACE district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

**6. PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.



7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** "PACE program" means a program established under State statute by the Trust and a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III - PACE PROGRAM**

#### **Section 5 - Establishment; funding.**

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that: (1) adopt a PACE Ordinance; (2) adopt and implement a local public outreach and education plan; (3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program; and (4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

#### **Section 6 - Amendment to PACE program.**

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

## **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

### **Section 7 - Standards adopted; Rules promulgated; model documents.**

If the Trust or other State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

## **ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

### **Section 8 - Program Administration.**

**1. PACE Administration.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality may enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- A. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- B. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- C. the Trust, or its agent, will disburse the PACE loan to the property owner;
- D. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- E. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE assessment;
- G. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**2. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

**Section 9 - Liability of Municipal Officials; Liability of Municipality.**

1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.
2. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article V, Sec. 8(1) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

**ORDINANCE FOR THE RECALL OF ELECTED MUNICIPAL OFFICIALS  
FOR THE TOWN OF LYMAN, MAINE**

**SECTION 1. Authority**

This Ordinance is adopted pursuant to Title 30-A M.R.S.A. § 2602 (6).

**SECTION 2. Applicability**

Any elected official of the Town of Lyman, Maine may be recalled and removed from office as herein provided for.

**SECTION 3. Petitions for Recall**

- a. Recall shall be initiated by petition.
- b. The petition shall be addressed to those members of the Board of Selectmen having no interest in the subject matter of the petition. If petitions for the recall of all Selectmen are submitted, then the petitions shall be addressed to the Town Clerk. In every case, the petition(s) shall be filed with the Town Clerk.
- c. Each page of the petition shall state the name and office, or offices, of the person whose removal is being sought and a statement of the reasons such removal is desired.
- d. The petition for recall must contain only signatures of the registered voters of the Town of Lyman, equal to ten percent (10%) of the number of votes cast in Lyman in the last Gubernatorial election.
- e. If recall of more than one official is being sought there shall be a separate petition for each official whose removal is being sought.
- f. Each page of the petition shall be ruled, and each line shall provide a space for the voters' signatures, address, and printed name.



g. Each petition shall have attached to it an affidavit by its circulator(s) stating the following:

1. That the circulator personally circulated the petition;
2. The number of signatures that the petition contains;
3. That all signatures were signed in the circulator's presence;
4. That the circulator believes all signatures to be the genuine signatures of the persons whose names they purport to be;
5. That each signer signed the petition no more than once and/or signed no more than one Petition; and
6. Each signer had an opportunity to read the Petition before signing it.

h. All pages of the petition shall be filed as one document.

#### SECTION 4. Clerk's Certification

Within (10) days of the receipt of the petition, the Town Clerk shall certify the signatures contained on the petition and shall determine if the petition meets all of the qualifications set forth in this Ordinance. Should the petition be found insufficient, the petition will be filed in the Clerk's office and the voter who filed the petition will be notified.

#### SECTION 5. Calling the Recall Election

a. If the petition is certified by the Town Clerk to be sufficient, he or she will submit the petition with his or her certification to the Board of Selectmen at their next regular meeting and shall notify the person or persons whose removal is being sought of such action.

b. The Selectmen, upon receipt of the certified petition, shall within ten (10) days time of receipt, order an election by secret ballot, pursuant to 30-A M.R.S.A. § 2528 to be held not less than 45 nor more than 60 days thereafter, provided that a regular municipal election will not be held within 90 days of receipt of the certified petition and, in this case the Selectmen may at their discretion provide for the holding of the recall election on the date of the regular municipal election.

c. In the event that the Selectmen fail or refuse to order an election as herein provided, the Town Clerk shall call the election to be held not less than 45 days nor more than 60 days following the selectmen's failure or refusal to order the required election.

d. If at any time between the time of ordering the election and the date of the election the person whose recall is sought requests a public hearing, the Selectmen will promptly schedule such a public hearing on the recall election.

#### SECTION 6. Ballots for the Recall Election

Unless the persons whose removal is being sought have resigned within ten (10) days of receipt of the petition by the Board of Selectmen, the ballots shall be printed and shall read: "SHALL \_\_\_\_\_ BE RECALLED?" with the name of the person whose recall is being sought inserted in the blank space.

#### SECTION 7. Result of Election

In the event of an affirmative vote by a majority of those voting at the recall election, such vote shall take effect as of the recording of the tabulation into the records.

#### SECTION 8. Vacancies to be Filled

Any vacancy resulting from removal from office under this Ordinance shall be filled in accordance with the provisions of Maine law.

Adopted November 7, 2006

TOWN OF LYMAN  
R.F.D. 3  
Biddeford, Maine 04005

Incorporated April 24, 1780

The following Ordinance is to be proposed at the Annual Town Meeting of the Town of Lyman on March 12 & 13, 1982. The Ordinance will appear under Article 53 on the Warrant.

RECORDS AND POSITIONS

All the records and documents pertaining to the positions of Selectmen, Tax Collector, Town Clerk, and Treasurer shall be kept in the Town Hall. These officials shall perform all their office work at the Town Hall. Hours when these officials will be available shall be posted.

This Ordinance shall be effective on the date of its adoption by the Town of Lyman.

Dated: March 1, 1982

A true copy.

Attest: Shirley A. Harrison  
Shirley A. Harrison  
Town Clerk

Elinor G. Rundgren  
Elinor G. Rundgren

Wesley R. Duling  
Wesley R. Duling

Louisa W. Nunan  
Louisa W. Nunan  
Selectmen, Town of Lyman

*Passed 3/13/1982*

TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shore land areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
  - normal high-water line of any great pond or river, or
  - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending *beyond* or located below the normal high-water line of a water body or within a wetland.

4. **Effective Date**

**A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on June 5, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

**B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

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**7. Conflicts with Other Ordinances.**

**Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance, or any other Ordinance, regulation, or statute administered by the Town, the more restrictive provision shall control.**

- 8. Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**9. Districts and Zoning Map**

**A. Official Shoreland Zoning Map.**

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- (1) Resource Protection
- (2) Limited Residential
- (3) Limited Commercial
- (4) General Development
- (5) Stream Protection

**As of June 5, 2009 Limited Commercial and General Development districts have not been established. These districts are listed here and in Section 13 and 14 to allow for future designation of these districts.**

**B. Scale of Map.**

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**C. Certification of Official Shoreland Zoning Map.**

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

**D. Changes to the Official Shoreland Zoning Map.**

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the

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**D. Changes to the Official Shoreland Zoning Map (cont'd)**

Commissioner of the Department of Environmental Protection.

**10. Interpretation of District Boundaries.**

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the Shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the property owner(s) shall supply the Code Enforcement Officer with a boundary survey prepared by a Maine Licensed Surveyor. The Board of Appeals on a case by case basis shall be the final authority as to location.

**11. Land Use Requirements.**

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

**12. Non-conformance.**

**A. Purpose.**

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**B. General**

- (1) Transfer of Ownership. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**C. Non-conforming Structures**

- (1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.



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**C. Non-conforming Structures (cont'd)**

**For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.**

**Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.**

- (a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by ***more than*** 30%, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not ***be*** expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area ***or*** volume since that date.
- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for **expansion in** conformity with Section 12 (C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, (from the original ground level to the bottom of the first floor sill), **and further provided that the foundation shall not include any enclosed space that exceeds six (6) feet in height or any habitable space,** it shall not be considered to be an expansion of the structure.

**(2) Relocation.**

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated

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**C. Non-conforming Structures (cont'd)**

structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

**(3) Reconstruction or Replacement.**

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, by more than 50% of the market value of the structure before such damage or destruction, may be reconstructed or replaced provided that a permit is obtained within (18) months of the date of said damage or destruction, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirement to the greatest extent practical as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area *or* volume of the reconstructed or replaced structure at its new location. If the total amount of floor area *or* volume of the original of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water

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**C. Non-conforming Structures (cont'd)**

body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

**D. Non-conforming Uses**

**(1) Expansions.**

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.

**(2) Resumption Prohibited.**

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period.

This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

**(3) Change of Use.**

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

**E. Non-conforming Lots**

**(1) Non-conforming Lots:**

A non-conforming lot of record as of the date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met.

Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

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**E. Non-conforming Lots (cont'd)**

**(2) Contiguous Built Lots:**

If two or more contiguous lots or parcels are in a single or joint ownership of record as of June 4 1993, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record as of June 4, 1993, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

**13. Establishment of Districts.**

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development District need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department

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**13. Establishment of Districts (cont'd)**

of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

**(1.A) The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat." Significant wildlife habitat includes: Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.**

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (3) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

**A. Resource Protection District (cont'd)**

**(4.1) These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.**

- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

**B. Limited Residential District.**

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas, which are used less intensively than those in the Limited Commercial District or the General Development District.

**C. Limited Commercial District.**

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**C. Limited Commercial District (cont'd)**

The Limited Commercial District includes areas of mixed light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**D. General Development District.**

The General Development District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
  - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
  - (c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development District or expansion in the area of existing General Development District adjacent to great ponds classified GPA, and adjacent to rivers that flow to great ponds classified GPA.

**E. Stream Protection District.**

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas as within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated Shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland district associated with that water body or wetland.

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**14. Table of Land Uses.**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

Yes - Allowed (no permit required but the use must comply with all applicable land use standards)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

**SR - Allowed with permit issued by the Staff Review Committee**

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

GD - General Development

LR - Limited Residential

LC - Limited Commercial

S P- Stream Protection

**SR - Staff Review Committee**

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**TABLE 1. LAND USES IN THE SHORELAND ZONE  
DISTRICT**

<u>LAND USES</u>	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	SR	SR	SR	SR	SR <sup>6</sup>
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Principal structures and uses					
A. One and two family residential, including driveways	no	No	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	No	No	CEO	CEO	CEO
15. Structures accessory to allowed uses/ Small wind energy generators	No	no	12 PB/CEO	12 PB/CEO	12 PB/yes
16. Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	PB	PB <sup>1</sup>	PB	PB	PB
b. Permanent	PB	PB	PB	PB	PB
17. Conversions of seasonal residences to year-round residences	PB/ LPI	PB/ LPI	PB/ LPI	PB/ LPI	PB
18. Home occupations	SR	SR	SR	SR	SR
19. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
20. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	PB	PB	PB	PB	PB
B. Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
21. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
22. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
23. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
24. Campgrounds	no	no <sup>7</sup>	PB	PB	PB
25. Road construction	PB	No <sup>7</sup>	PB	PB	PB
26. Land management roads	yes	PB	yes	yes	yes
27. Parking facilities	no	no	PB	PB	PB
28. Marinas	PB	no	PB	PB	PB
29. Filling and earth moving of < 10 cubic yards (see section 15H)	CEO	CEO	yes	yes	yes
30. Filling and earth moving of > 10 cubic yards (see section 15H)	PB	PB	CEO	CEO	CEO
31. Signs	yes	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

1. In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
2. Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. See further restrictions in Section 15( L)(2)



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**Notes to Land Use Table 1.continued**

6. Except when area is zoned Resource Protection due to floodplain criteria in which case a permit is required from the PB.  
7. Except as provided in Section 15(H)(4).6. Except when area is zoned Resource Protection due to floodplain criteria in which case a permit is required from the PB.  
8. Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions.  
    Two-family residential structures are prohibited.  
9. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.  
10. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.  
11. Permit not required but must file a written "notice of intent to construct" with CEO.  
12. Small wind energy generating systems must have Planning Board review and approval.

**NOTE:** A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- C. Any construction or alteration of any permanent structure.

**15. Land Use Standards.** All land use activities within the Shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)	<u>Sideline Setbacks</u>
(1)			
(a) Residential per dwelling unit	40,000	200	<u>25</u>
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000	300	<u>25</u>
(c) Public and Private Recreational Facilities	40,000	200	<u>25</u>
(d) <u>Any non-conforming lot of record existing before June 4, 1993 shall have a         ten (10) foot side setback.</u>			
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.			
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.			
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.			
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single-parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.			

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**B. Principal and Accessory Structures**

- (1) All new principal and accessory structures shall be set back at least one hundred feet horizontal distance, **except in areas where seventy-five feet is the setback**, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be two hundred and fifty feet (250), horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

- (1.1) See Tax Maps in CEO Office for shorefront locations with 75 foot setback requirement which are highlighted in yellow. All areas not highlighted require a one hundred (100) foot setback.**

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) **On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.**
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) **The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.**

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**B. Principal and Accessory Structures (cont'd)**

- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland zone, including land area previously developed.
- (5) **Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:**
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
  - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch
    - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm-water runoff;
    - (iii) Only native species may be used to establish the buffer area;
    - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
    - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

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**B. Principal and Accessory Structures (cont'd)**

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High -Water Line of a Water Body or Within a Wetland.**

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) **New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.**
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- (9) **New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.**

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**D. Campgrounds.**

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) **A recreational vehicle, tent or similar shelter may be placed on-site from April 14 to Oct 31, of each year. All requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities**

**E. Individual Private Campsites.**

Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the Shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

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**E. Individual Private Campsites (cont'd)**

- (6) When a recreational vehicle, tent or similar shelter is placed on-site, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
- (7) **A recreational vehicle, tent or similar shelter may only be used from April 14<sup>th</sup> until October 31<sup>st</sup> in any calendar year.**

**F. Commercial and Industrial Uses.**

The following new commercial and industrial uses are prohibited within the Shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing.

**G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development District shall be no less than fifty (50) feet, horizontal distance, from the

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**G. Parking Areas (cont'd)**

shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm-water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking spaces: **Shall** be at least ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - (b) Internal travel aisles: **Shall** be at least twenty (20) feet wide.

**H. Roads and Driveways.**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from water body.

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**H. Roads and Driveways (cont'd)**

- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.



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**H. Roads and Driveways (cont'd),**

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**I. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

**J. Storm Water Runoff**

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm-waters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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**J. Storm Water Runoff (cont'd)**

- (3) Maine Storm Water Management Law, 38 M.R.S.A. Sec. 420-D, requires a full time permit to be obtained from the DEP prior to construction of a project consisting of twenty (20,000) square feet or more of impervious area or (5) acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with one (1) acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than one (1) acre impervious area twenty (20,000) square feet for most-at-risk lakes and urban impaired streams) and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

**K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: (a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and (b) a holding tank above or below ground is not allowed for a first-time residential use in the Shoreland zone.
- (2) The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

**L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed as existed without a permit.

**M. Mineral Exploration and Extraction**

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods, which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration, which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

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**M. Mineral Exploration and Extraction (cont'd)**

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) **No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water-body tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within one-hundred-fifty (150) feet, horizontal distance, of any lot with an existing residential use or within fifty (50) feet of a property line on which no residential use exist as of the date of the application, unless abutting property owners agree in writing to a lesser setback. Said setback agreement(s) shall be recorded at the York County Registry of Deeds within ninety (90) days. No excavation shall be allowed within one hundred (100) feet of the edge of a public way.**
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
    - (i) **The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the Solid Waste Management Rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.**
  - (b) The final graded slope shall be three to one (3:1) slope or flatter.
  - (c) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

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**N. Agriculture**

- (1) All spreading **or disposal** of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) **Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.**
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (3.1) **Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District Office.**
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

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**A State Permit is Required for all Timber Harvesting Activities**

**O-1. Timber Harvesting – Statewide Standards June 4, 1993**

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to great ponds, rivers and wetlands:
    - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - (a) Option 1 (40% volume removal), as follows:
    - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed. Volume may be considered to be equivalent to basal area;
    - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
    - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a wetland, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
  - (b) Option 2 (60 square foot basal area retention), as follows:

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
  - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the Shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in Shoreland areas.
- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - (c) Setbacks:
    - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

- (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:

- (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or wetland;

- (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

- (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

- (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

- (d) New land management roads are not allowed within the Shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the Shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15 (O-1)(7). Where such a filter-strip is impracticable appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  - (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.



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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

- a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report # 99-4008. 45 pp.
- (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing, construction, maintenance, alteration and replacement activities in Shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - (i) concentrated water runoff does not enter the stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

- (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
  - (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
  - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    - 1. use of temporary skidder bridges;
    - 2. removing culverts prior to the onset of frozen ground conditions;
    - 3. using water bars in conjunction with culverts;
    - 4. using road dips in conjunction with culverts.
  - (iii) Culverts utilized in river, stream and tributary stream crossings must:
    - 1. be installed at or below river, stream or tributary streambed elevation;
    - 2. be seated on firm ground;
    - 3. have soil compacted at least halfway up the side of the culvert;
    - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
    - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
  - (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
  - (v) Exception. Skid trail crossings of tributary streams within Shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the

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**O-1. Timber Harvesting – Statewide Standards June 4, 1993 (cont'd)**

requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands, such conditions must be corrected.

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - (iii) Any bridge or water-crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25-year frequency water flows;
    2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
    3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

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**O.1 Timber Harvesting Statewide Standards June 4, 1993 (cont'd)**

(7) Slope Table:

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

**P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.**

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or - other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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**P. Clearing or Removing Vegetation (cont'd)**

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area..

**EXAMPLE**

**NOTE:** Adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36- 24 =12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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**P. Clearing or Removing Vegetation (cont'd)**

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty-(40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the Shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development District.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

**Q. Erosion and Sedimentation Control.**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

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**Q. Erosion and Sedimentation Control (cont'd)**

- (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

**R. Soils.**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other

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**R. Soils (cont'd)**

pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

**S. Water Quality.**

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

**T. Archaeological Site.**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

**16. Administration**

**A. Administering Bodies and Agents**

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law and the Town's Zoning Ordinance.

**B. Permits Required.**

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
  - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than 75 feet; and



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**B. Permits required (cont'd)**

- (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A Permit is not required for an archaeological excavation as long as the excavation is conducted by -an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

**C. Permit Application**

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- (5) Applications requiring Planning Board approval shall include a list of abutters with addresses and a set of three (3) standard (1"X 2 5/8") mailing labels with the names and addresses of each abutter and six (6) of the same mailing labels for the applicant and the applicant's agent.

**D. Procedure for Administering Permits.**

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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**D. Procedure for Administering Permits (cont'd)**

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance after the submission of a complete application to the Planning Board, the Board shall approve an application or approve with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will avoid problems associated with floodplain development and use; and
- (8) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any federal, state or other local ordinance, or regulation or statute administered by the municipality.

**E. Special Exceptions.**

**In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:**

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.**
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.**
- (3) All proposed buildings, sewage disposal systems and other improvements are:**
  - (a) Located on natural ground slopes of less than 20%; and**

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**E. Special Exceptions (cont'd)**

- (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than one-hundred (100) feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration of Permit.**

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.**

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the Shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

**H. Appeals**

- (1) **Powers and Duties of the Zoning Board of Appeals.** The Zoning Board of Appeals shall have the following powers:
  - (a) **Administrative Appeals:** To hear and decide administrative appeals, on a de novo basis from the CEO and otherwise on an appellate basis, where it is alleged by an

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**H. Appeals (cont'd)**

aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Zoning Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(c) Any person aggrieved by a final decision of the Planning Board on a site application may appeal that decision to the Zoning Board of Appeals within thirty (30) days of the Planning Board's decision. The review by the Zoning Board of Appeals shall be on an appellate basis and shall be limited to a review of the record developed before the Planning Board. The person(s) submitting the appeal and any opponents to the position of that person(s) may make written and/or oral presentations to the Zoning Board of Appeals about why they feel the decision of the Planning Board was correct or in correct. The Zoning Board of Appeals shall only reverse the decision of the Planning Board if it determines that the decision contained a procedural error or was contrary to the Ordinance. Any appeal from the decision of the Zoning Board of Appeals under this section shall be made to the Superior Court within forty-five (45) days after the date of that decision.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. the term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted not taking into consideration financial hardship;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

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**H. Appeals (cont'd),**

d. That the hardship is not the result of action taken by the applicant or a prior owner.

- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

**(3) Administrative Appeals**

When the Board of Appeals hears a decision of the Code Enforcement Officer, it shall hold an "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaken its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence, which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

**(4) Appeal Procedure**

- (a) Making an Appeal

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**H. Appeals (cont'd),**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official decision appealed from, and not otherwise, except that the Board **Appeals**, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by all appellate parties.

**(b) Decision by Board of Appeals**

- (i) **A quorum shall consist of three members.**  
**If only three members are present for the meeting, the applicant or the agent shall be notified by the chair that they can request that the meeting be continued to a later date in hope that a full board will be present.**  
**An applicant will be allowed one postponement in hope of a full board. A tie vote shall be considered a negative vote on a question or the denial of an application. All sitting members must vote.**  
**If an alternate member is assigned to vote on a case that is before the board, that member must have attended any meetings that were held previously on that case, or must have reviewed any previously held meetings before he or she can vote.**
- (ii) The person filing the appeal shall have the burden of proof.
- (iii) The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board

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**H. Appeals (cont'd)**

shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

- (v) **If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance was granted shall be prepared in recordable form. This certificate must be recorded in the York County Registry of Deeds within ninety (90) of the date of the decision. The Town of Lyman staff shall record in the Registry of Deeds all variances approved or denied. The applicant shall be responsible for the cost of recording.**

**Any person aggrieved by a final decision of the Planning Board on a site plan application may appeal that decision to the Zoning Board of Appeals within thirty (30) days of the Planning Board's decision. The review by the Zoning Board of Appeals shall be on an appellate basis and shall be limited to a review of the record developed before the Planning Board. The person(s) submitting the appeal and any opponents to the position of that person(s) may make written and/or oral presentations to the Zoning Board of Appeals about why they feel the decision of the Planning Board was correct or incorrect. The Zoning Board of Appeals shall only reverse the decision of the Planning Board if it determines that the decision contained a procedural error or was clearly contrary to the Ordinance. Any appeal from a decision of the Zoning Board of Appeals under this section shall be made to the Superior Court within forty-five (45) days after the date of that decision.**

**I. Enforcement**

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

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**I. Enforcement (cont'd)**

- (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
  - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. section 4452.

**17. Definitions.**

**Abutter – A property owner whose parcel of land shares a common boundary line or whose property is located directly across a public or private road or across a water body.**

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-



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**17. Definitions (cont'd)**

house products. Agriculture does not include forest management and timber harvesting activities.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau – State of Maine Department of Conservation's Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline

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**17. Definitions (cont'd)**

integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

**EASEMENT: An easement is the right to use land owned by someone else for a specified purpose.**

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services – electrical or communication facilities; steam, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; water, municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months, to a use's operating season; **hours of operation**, or the use of more floor area or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

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**17. Definitions (cont'd)**

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost-walls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, fish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundment's of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys,

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**17. Definitions (cont'd)**

steeple, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is (1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and (2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions, which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements, which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional - a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

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**17. Definitions (cont'd)**

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect..

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Note – the notes which appear in this ordinance are for informational purposes only.**

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal

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**17. Definitions (cont'd)**

high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement **subsurface wastewater** system - a system intended to replace: (1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure,  
or (2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that

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**17. Definitions (cont'd)**

contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Road Frontage - the horizontal property line distance directly abutting a roadway.**

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Service Road – A one hundred (100) foot easement in the commercial Zone owned in common by the lot owners as a Road Association to provide access to the lots in the commercial zone from existing state highways that do not allow any additional curb cuts or driveways.**

Setback, water or wetland - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

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**17. Definitions (cont'd)**

**Sideline setback – the nearest horizontal distance from a side property line to the nearest part of a structure , road, parking space or regulated object or area.**

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a wetland.

Significant River Segments - See Appendix B or 38 M.R.S.A. section 437.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the Shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland zone on a lot that has



TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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**17. Definitions (cont'd)**

less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary stream -- means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland.

**NOTE**

**Water setback requirements apply to tributary streams within the Shoreland zone.**

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater wetland.

**Wetlands associated with great ponds and rivers – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to a great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and**

TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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**17. Definitions (cont'd)**

**which have a surface elevation at or below the normal high water line of a great pond or river.**

**Wetlands associated with great ponds or rivers are considered to be part of the great pond or river.**

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind locking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

**END**  
**SHORELAND ZONING ORDINANCE**

TOWN of LYMAN  
SHORELAND ZONING ORDINANCE

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*Proposed*  
**LYMAN**  
**TOWN ORDINANCE**  
*on*  
**STREET ADDRESSES**

**Section 1: Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery. With consideration for emergency services being paramount.

**Section 2: Authority**

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A MSRA Section 3001.

**Section 3: Administration**

This ordinance shall be administered by the Addressing Committee who shall assign road names and numbers to all properties, both on existing and proposed roads. The Addressing Committee shall be responsible for maintaining the following official records of this ordinance:

- a. A Town of Lyman map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.
- d. Development and maintenance of a Master Street Address Guide.

**Section 4: Naming System**

All roads in the Town of Lyman that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the Town of Lyman shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. Similar names - no two roads shall be given the same or similar sounding names.
- b. Each road shall have the same name throughout its entire length.

**Section 5: Numbering System**

Numbers shall be assigned every 50 feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system:

a. All number origins shall begin using the village of Goodwins Mills as the center of origin, or that end of the road closest to the designated center of origin. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbering interval falling closest to the front door or driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy.

#### **Section 6: Compliance**

All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

b. Number at the Street Line. Where a residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

c. Size and Color of Number. Numbers displayed shall be a minimum of 4 (four) inches in height, and of a color to contrast with the color of the structure or residence. Numbers shall be made from a light reflective material. Numbers shall be located as to be visible from the road.

d. Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

e. Interior Location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

f. Road Signs. The Town of Lyman shall provide, install and maintain street signs for all public ways.

(1) For private ways, the Town of Lyman will provide and install a street sign as a one-time service. Additionally, private ways must display a sign indicating "private way". This sign shall be similar in style and design as the actual street sign. After the initial sign is installed, the property owner must maintain the sign and replace as necessary. Replacement signs may be purchased through the Town of Lyman.



(2) Signs shall be white or silver reflective letters on a green background. As much as possible, signs should conform to standards adopted by the Federal Highway Administration and the Maine Department of Transportation. The Road Commissioner is responsible for procurement, installation and maintenance of street signs.

#### **Section 7: New Developments and Subdivisions**

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

a. New Developments. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Building Inspector. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submitted to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of streets every 50 (fifty) feet so as to aid in assignment of numbers to structures subsequently constructed.

#### **Section 8: Master Street Address Guide (MSAG)**

The Town of Lyman shall provide the Emergency Services Communication Bureau with a listing of road names, number ranges, emergency service zones, accurate physical addresses for all of its residents, and all coin operated telephones in Lyman. This information will be used to establish a Master Street Address Guide (MSAG) for the purpose of routing 911 emergency telephone calls to the appropriate public safety answering point. After establishment of the MSAG the Town of Lyman shall continue to verify the accuracy of the routing information contained in the MSAG and advise the Emergency Services Communications Bureau of any changes in road names, the establishment of new roads, changes in address numbers used on existing roads, closing and abandonment of roads, changes in police, fire and emergency medical service or other appropriate agencies, jurisdiction over any address, annexations and any other changes to municipal boundaries or any other matter that will affect the routing of 911 emergency calls.

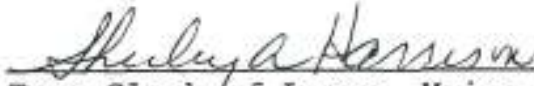
#### **Section 9: Municipal Address Coordinator**

The Board of Selectmen shall appoint an individual to serve as Municipal Address Coordinator for all issues involving the development and maintenance of the Master Street Addressing Guide. The Municipal Address Coordinator shall maintain liaison with the Emergency Services Communications Bureau and all emergency service providers, serving the Town of Lyman.

**Section 10: Effective Date**

This ordinance shall be come effective as of July 1, 1996. It shall be the duty of the Town of Lyman, to notify by mail each owner and the Post Office of the new address within thirty days of the effective date of this ordinance. It shall be the duty of each property owner to comply with this ordinance within 30 (thirty) days of notification. On new structures, numbering will be installed prior to its first use or occupancy.

**Attest:** A true copy of an ordinance entitled "Lyman Town Ordinance on Street Addresses", as certified to me by the municipal officers of Lyman on the 9th Day of May, 1996.

  
\_\_\_\_\_  
Town Clerk of Lyman, Maine

**Adopted:** May 18, 1996

# **TOWN OF LYMAN**

# **ZONING ORDINANCE**

**Adopted – November 8, 2005**

**Amended – November 7, 2006**

**Amended – June 29, 2009**

**Amended – June 1 and 5, 2010**



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## **Article 1 General**

### **1.1 Short Title**

**This ordinance shall be known and cited as the Zoning Ordinance of the Town of Lyman, Maine, and will be referred to as the “Ordinance”.**

### **1.2 Authority**

**This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Constitution, the provisions of Title 30-A MRSA Section 2691 (Board of Appeals), Title 30-A MRSA, Section 3001 (Home Rule), Title 30-A MRSA Section 4312 et. seq. (Growth Management Law), Title 30-A Section 4351 et. seq. (Land Use Regulations)**

### **1.3 Purpose**

**The purposes of this ordinance are to implement the provisions of the Town’s Comprehensive Plan.**

**To encourage the type of growth as identified within the zoning districts.**

**To further the maintenance of safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses, and conserve shore cover, visual as well as actual points of access to inland waters and natural beauty.**

**This ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other laws and regulations.**

### **1.4 Validity and Severability**

**Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.**

### **1.5 Conflict With Other Ordinances**

**Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control, unless otherwise indicated.**

## **1.6 Amendment Procedure**

### **A. Initial Petitions**

**An amendment may be initiated by a majority vote of the Lyman Planning Board, a majority vote of the Board of Selectmen or by a petition of at least ten (10) per cent of the votes cast in the last gubernatorial election in the town. This ordinance may be amended by a majority vote of the Town Meeting. The Planning Board must hold a public hearing on the amendment at least ten (10) days before the consideration of adoption. Public notice of the hearing shall be made in accordance with the provisions of Title 30-A M.R.S.A. Section 4352.**

### **B. Repetitive Petitions**

**No proposed changes in this Ordinance which has been unfavorably acted upon by the Town Meeting shall be reconsidered by the Town Meeting within six (6) months after the date of such an unfavorable action, unless adoption of the proposed change is recommended by a unanimous vote of the Planning Board.**

## **1.7 Repealer**

**The Lyman Zoning Ordinance adopted on January 22, 1976 and amended through June 8, 2002 is hereby repealed.**

## **1.8 Effective Date**

**This ordinance shall become effective on the date of its passage by Town vote. Date of vote November 1, 2005, Effective Date: November 2, 2005.**

## **Article 2 Establishment of Districts**

### **2.1 Zoning Districts**

- 1. Shoreland District**
- 2. Residential District**
- 3. General Purpose District**
- 4. Commercial/Residential District**
- 5. Mobile Home Park Overlay District**

### **2.2 Location of Districts**

**Said Districts are located and bounded as shown on the Official Zoning Map, Entitled "Zoning Map of Lyman," dated November 1, 2005 and on file in the office of the Municipal Clerk.**

The Official Map is incorporated herein by reference and shall be signed by the Municipal Clerk and the Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this map may be seen in the offices of other Municipal Officers.

### **2.3 Uncertainty of Boundary Lines**

Where uncertainty exists with respect to boundaries of various Districts as shown on the Zoning Map, the following rules shall apply. Unless otherwise indicated boundary lines shall be considered as lines paralleling a road, waterway, shoreline or lot line and at distances from the center lines of roads, waterways, shorelines or lot lines as indicated by the Zoning Map. In the absence of a written dimension, the graphic scale on the Zoning Map shall be used.

### **2.4 Division of Lots by District Boundaries**

Where a Zoning District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than fifty (50) feet into the more restricted portion of the lot. Extension of a use into a more restricted portion of a lot shall require site plan review and approval by the Planning Board subject to Article 9 of this Ordinance.

### **2.5 Where continued uncertainty exists, a property owner may file an appeal to the Lyman Zoning Board of Appeals, which shall hear the case as an Administrative Appeal.**

## **Article 3 Non-Conforming Uses Lots & Structures**

### **3.1 Continuance of Non-conforming Uses**

**3.1.1** The use of land, buildings or structures, lawful at the time of adoption or subsequent amendment of this ordinance, may continue although such use does not conform to the provisions of this ordinance.

**3.1.2** A non-conforming building, structure may be repaired, or maintained, but the area of a non-conforming use may not be extended or expanded nor shall a use be intensified except in conformity with the provisions of this ordinance.

**3.1.3** A non-conforming use may not be expanded.

### **3.2 Discontinuance of a Non-Conforming Use**

**A non-conforming use which is discontinued for a period of two (2) years may not be resumed. The use of land, building or structure shall thereafter conform to the provisions of the Ordinance.**

### **3.3 Rule of Precedence**

**Whenever a non-conforming use and / or structure is superseded by a permitted use and / or structure and land in combination, such structure or combination of land and structure shall thereafter conform to the provisions of the ordinance and the non-conforming use may not thereafter be resumed.**

### **3.4 Transfer of Ownership**

**Ownership of land and structures which remains lawful but becomes non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses or structure subject to the provisions of this Ordinance.**

### **3.5 Non – Conforming Lots of Record**

**3.5.1 No dwelling or septic system may be located on any lot less than 20,000 square feet in size. No variance shall be granted from this requirement.**

**3.5.2 A single lot of record which, at the effective date of adoption or amendment of this ordinance, does not meet the area or width requirements, or both, of the District which it is located, may be built upon provided that such lot shall be separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of the ordinance are met. Variances of requirements other than area and width shall be obtained only by action of the Board of Appeals. If a lot is less than 20,000 square feet in size see section 3.5.1.**

**3.5.3 If two (2) or more contiguous lots or parcels are in single or joint ownership of record as of January 14, 1976 forward, and if these lots do not individually meet the dimensional requirements of the ordinance or any subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards.**

**3.5.4 Any nonconforming building which is hereafter damaged or destroyed by fire, flood, lighting, wind, or other accidental cause, as determined by the Code Enforcement Officer after consultation with other authorities, may be restored or reconstructed in conformity with its original dimensions and in the same footprint within twelve (12) months of the date of such damage or destruction; provided, however that such reconstruction shall not be more nonconforming than the**

**prior nonconforming building or use. A building permit must be acquired from the Code Enforcement Officer prior to commencing reconstruction under this section**

## **Article 4 Land Use District Requirements**

### **4.1 Shoreland District**

**The Shoreland District is subject to the terms, conditions and requirements contained in the Shoreland Zoning Ordinance adopted by the Town of Lyman on June 5, 2009.**

### **4.2 Residential District**

- 1. To provide for the public health and safety, environmental quality, and economic well-being of the community.**
- 2. To provide for areas for medium density residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.**
- 3. To provide areas for public and semi-public uses compatible with and necessary to residential development.**

### **4.3 General Purpose District**

**To allow diversity of use, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing controls on those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odor or auto, truck, or rail traffic) could otherwise create a nuisance or unsafe or unhealthy condition.**

### **4.4 Commercial/Residential District**

**To provide areas for a wide range of commercial businesses, with uses which are clean and non-polluting. As recommended in the Town of Lyman 2004 Comprehensive Plan, this District shall abut Routes 111, and 5 and 202, and shall be buffered from residential uses. (Note: See definition of Buffer in Article 11.)**

### **4.5 Mobile Home Park Overlay District**



1. To offer viable and affordable housing option (s) for the citizens of Lyman in areas that can support, both environmentally and from a public service perspective, higher residential densities.
2. To meet the State of Maine requirements under Title 30-A M.R.S.A. Section 4358, Regulation of Manufactured Housing.
3. To establish such a District as an Overlay District which still permits the uses of the underlying zone while also allowing for mobile home parks.
4. Mobile Home Park are only allowed in the Mobile Home Park Overlay District as shown on the Official Zoning Map

See standards in Section 10.19

### Land Use Table

**Note:**

The Commercial/Residential District Land Use designations are for commercial properties only. Residential properties in the Commercial/Residential District follow the Residential District Land Use designations.

<b>Land Use:</b>	<b>Residential District</b>	<b>General Purpose District</b>	<b>Commercial/ Residential District</b>
<b>Key: YES– Permitted Use; SR – Requires Site Plan Review; NO – Not Allowed</b>			
<b>* See Recycling Facility Commercial/Residential District      ** See Commercial Facility (1) General Purpose District</b>			
<b>Agriculture (1)</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Agriculture (2)</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Assisted Living &amp; Nursing Homes</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Automobile Recycling</b>	<b>NO</b>	<b>SR</b>	<b>* NO</b>
<b>Automobile Sales &amp; Service</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Bank / Financial Institutions</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Bed &amp; Breakfast Inns</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Boat &amp; RV Sales &amp; Service</b>	<b>NO</b>	<b>**SR</b>	<b>SR</b>

<b><u>Land Use:</u></b>	<b><u>Residential District</u></b>	<b><u>General Purpose District</u></b>	<b><u>Commercial/ Residential District</u></b>
<b>Business Contractor (1)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Business Contractor (2)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Business Office</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Campgrounds</b>	<b>NO</b>	<b>SR</b>	<b>NO</b>
<b>Cemetery (20,000 SF or less)</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Cemetery over 20,000 SF</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Church, Parish House Rectory, Convents.</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Clubs</b>	<b>NO</b>	<b>SR</b>	<b>NO</b>
<b>Commercial Facilities (1)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Commercial Facilities (2)</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Commercial Timber Harvesting (Permit required from State of Maine, Department of Forestry)</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Dwelling, Single Family</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Dwellings, Two Family</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Dwellings, Multi-Family</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Earth Moving Activities</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Farming</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
<b>Function Hall</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Health Institution</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Home Day Care / Nursery School</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Home Occupation</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Hotel / Motel</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Junkyards</b>	<b>NO</b>	<b>SR</b>	<b>NO</b>

<b><u>Land Use:</u></b>	<b><u>Residential District</u></b>	<b><u>General Purpose District</u></b>	<b><u>Commercial/ Residential District</u></b>
<b>Lumber Yard</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Manufacturing</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Medical Care Facility</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Mobile and Modular Home Sales</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Municipal Facility</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Neighborhood Convenience Store (1)</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Neighborhood Convenience Store (2)</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Outdoor Recreation</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Personal Service Business</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Professional Office</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Public Utility Facility</b>	<b>SR</b>	<b>SR</b>	<b>SR</b>
<b>Recreation Facility</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>
<b>Research Development Facility</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Recycling Facility</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Retail Business</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Restaurant (Standard)</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Restaurant (Fast Food)</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Sawmills</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Schools (Public &amp; Private)</b>	<b>SR</b>	<b>SR</b>	<b>NO</b>
<b>Schools (Vocational &amp; Technical)</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Self Service Storage Facility</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>
<b>Transmission Towers</b>	<b>NO</b>	<b>SR</b>	<b>SR</b>

<b><u>Land Use:</u></b>	<b><u>Residential District</u></b>	<b><u>General Purpose District</u></b>	<b><u>Commercial/ Residential District</u></b>
<b>Truck Terminals</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Warehousing</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Wholesale Business</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>
<b>Wholesale Club</b>	<b>NO</b>	<b>NO</b>	<b>SR</b>

**Amended on 11/7/06 to allow Dwelling, Single Family and Dwelling, Two Family in the Commercial Zone along with Dwelling, Multi-Family with SR.**

## **Article 5 Land Uses**

### **5.1 Residential District**

**To provide areas for medium density residential development and to provide areas for concentrations of residential development within the rural setting of the Town. Non-Residential uses should be limited in this area.**

**If a use is not listed then that use is prohibited in the Residential District.**

#### **5.1.1 Permitted Uses:**

**The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer:**

**Agriculture – (1)  
Dwelling, Single Family  
Dwelling, Two Family**

**Cemetery – Having an area less than 20,000 sq. feet without buildings. No cemetery shall be located over a sand and gravel aquifer. All cemeteries shall comply with the applicable State Regulations.**

#### **Home Occupation**

**5.1.2 Permitted uses requiring Site Plan Review by the Planning Board in addition to any other permits required by this Ordinance or by any other regulatory agency.**

**Assisted Living & Nursing Homes**

**Bed & Breakfast Inn with eight (8) rental rooms or less and owner occupied  
Business Contractor (2)**

**Cemetery – Having an area of more than 20,000 sq. feet without buildings. No  
cemetery shall be located over a sand & gravel aquifer.**

**Church, Parish House, Rectory, Convent**

**Commercial Timber Harvesting - Permit required from State of Maine, Department of  
Forestry**

**Dwelling, Multi-Family**

**Home Day Care / Nursery School**

**Municipal Facility**

**Neighborhood Convenience Store (1)**

**Outdoor Recreation**

**Personal Service Business**

**Public Utility Facility**

**School – Public or Private**

## **5.2 General Purpose District**

**If a use is not listed then that use is prohibited in the General Purpose District.**

**5.2.1 The following uses are permitted upon obtaining any required permits  
from the Code Enforcement Officer.**

**Agriculture – (2)**

**Farming**

**Dwelling, Single Family**

**Dwelling, Two Family**

**Cemetery – Having an area less than 20,000 sq. feet without buildings. No  
cemetery shall be located over a sand and gravel aquifer. All  
cemeteries shall comply with the applicable State Regulations.**

## **Home Occupation**

**5.2.2 Permitted uses requiring a Site Plan Review by the Planning Board in  
addition to any other permits required by this Ordinance or by any other  
regulatory agency.**

**Assisted Living & Nursing Homes**

**Automobile Recycling (Permit also required from Board of Selectmen)**

**Bed & Breakfast Inn, with 12 rental rooms or less owner occupied.**

**Boat & RV Sales and Services, as Commercial Facility (1)**

**Business, Contractor (1)**

**Business, Office**

**Campground**

**Cemeteries, Over 20,000 Sq. feet with buildings. No  
cemetery shall be located over a sand & gravel aquifer.**

**Church, Parish House, Rectory, Convent**

**Clubs**

**Commercial Facilities, (1)**

**Commercial Timber Harvesting - Permit required from State of Maine, Department of Forestry**

**Dwelling, Multi-Family**

**Earth Moving Activities**

**Function Hall**

**Home Daycare / Nursery Schools**

**Junkyard (Permit also required from Board of Selectmen)**

**Municipal Facility**

**Neighborhood Convenience Store (1)**

**Neighborhood Convenience Store (2)**

**Personal Services Business**

**Professional Office**

**Public Utility Facility**

**Outdoor Recreation**

**Recreation Facilities to include, Parks, Playgrounds, Golf Courses, Driving-Sawmills Ranges**

**Self Service Storage Facility**

**Schools, Public and Private**

**Transmission Towers**

### **5.3 Commercial/Residential District**

**If a use is not listed then that use is prohibited in the Commercial/Residential District.**

**The requirements of this Ordinance apply to commercial property owners within the Commercial/Residential District. As amended in November 2006, this Ordinance allows owners of residential properties, and properties to be improved, within the Commercial/Residential District to construct new single family dwelling units, accessory dwelling units, two family dwelling units, and multi-family dwelling units provided that the dwelling(s) and the lots upon which they are located conform to the permitting, dimensional, and any other requirements applicable to those uses in the Residential District.**

**The Commercial/Residential District abuts Routes 111, and 5 and 202, as shown on the Official Zoning Map on file in the office of the Municipal Clerk. The District extends from the Routes 111, and 5 and 202, commercial lot property lines to a depth of 1500 feet. Along Route 111, the District extends from the Town of Arundel line westerly to Sunken Branch Brook. Along Routes 5 and 202, the District extends from the Town of Hollis line westerly to the Town of Waterboro line.**

**5.3.1 The following uses are permitted upon obtaining any required permits from the Code Enforcement Officer.**

**Agriculture – (2)**

**Single Family Dwelling} Amended 11/7/06**

**Two Family Dwelling} Amended 11/7/06**

**Farming**

**Cemetery – Having an area less than 20,000 Sq. Feet without buildings.  
No cemetery shall be located over a sand & gravel aquifer.  
Home Occupation**

**5.3.2 Permitted uses requiring a Site Plan Review by the Planning Board in addition to any other permits required by this Ordinance or by any other regulatory agency.**

**Bank / Financial Institutions**

**Business Contractor (1)**

**Business Office**

**Commercial Facilities, (2)**

**Commercial Timber Harvesting - Permit required from State of Maine, Department of Forestry**

**Earth Moving Activities**

**Function Hall**

**Health Institution**

**Hotel / Motel**

**Lumber Yard**

**Medical Care Facility**

**Multi – Family Dwellings Amended 11/7/06**

**Municipal Facility**

**Manufacturing**

**Neighborhood Convenience Store (2)**

**Automobile Sales and Service**

**Boat and RV Sales and Service**

**Mobile and Modular Home Sales**

**Personal Service Business**

**Professional Offices**

**Public Utility Facility**

**Recycling Facility**

**Research Development Facility**

**Retail Business, (including the manufacturing of goods offered for sale on the premises.)**

**Restaurant, Standard**

**Restaurant, Fast Food**

**Sawmills**

**Schools, Vocational – Technical**

**Self Service Storage Facility**

**Transmission Towers**

**Truck Terminal**

**Warehousing**

**Wholesale Business**

**Wholesale Club**

## **Article 6 Dimensional Requirements**

### **6.1 Basic Requirements**

**Permitted Uses and Site Plan Review approvals shall conform to all dimensional requirements and other applicable requirements of the Ordinance. A building permit or use permit shall be required, and an electrical permit and/or a plumbing permit may be required for all buildings, uses, and sanitary facilities according to the provisions of the ordinance.**

**When a residential property is converted to a commercial property, the newly designated commercial property shall conform to dimensional and setback requirements for the Commercial/Residential District.**

**A residential property, once converted to a commercial property, as well as an existing commercial property, may not be converted to a residential property.**

### **6.2 Lot Size and Setback Requirements**

**NOTE: All setbacks are from property lines. Setbacks are not measured from the edge of roadways. These setback requirements apply to all Districts.**

#### **Residential District:    Amended 11/7/06**

**Minimum Lot Size:     3 Acres                      Square Footage: 130,680**

**Setbacks:     75 feet front     40 feet sides and rear**

**Minimum Road Frontage:     300 feet**

**Maximum Lot Coverage for Buildings: 15 %**

#### **General Purpose District:**

**Minimum Lot Size:     5 Acres                      Square Footage : 217,800**

**Setbacks:     75 feet front,            40 feet sides and rear**

**Minimum Road Frontage:            375 feet**

**Maximum Lot Coverage for Buildings: 20%**



## **Commercial/Residential District:**

**These requirements apply to commercial lots within the Commercial/Residential District. Residential lots within the Commercial/Residential District shall conform to the requirements of the Residential District.**

**The Commercial/Residential District envisions a maximum of two commercial lots within the 1500 foot depth abutting Routes 111, or 5 and 202, with Lot #1 in front, and Lot #2 in back of Lot #1.**

### **Base Lot Size:**

**Lot #1: This lot abuts both sides of those portions of Routes 111, and 5 and 202 that are listed as being in the Commercial/Residential District. This lot shall have a minimum width of 200 feet abutting the above listed Routes, and a minimum depth of 650 feet.**

**Lot #2: This lot shall have a minimum width of 200 and a minimum depth of 850 feet.**

**Setbacks for Structures: 100 feet front, 100 feet rear, 30 feet side**

**Minimum Road Frontage: 200 Feet**

**Maximum Total Lot Coverage: 45%, as described below**

**In determining lot coverage, the commercial property owner shall be allowed to cover forty-five percent (45%) of the usable lot area with impervious surface. In calculating the allowable lot coverage, all wetlands, areas of steep slope (areas with a grade of 30% or more), easements and rights-of-way are subtracted from the total lot area to derive the usable lot area for calculation. Impervious surface area includes the areas of buildings, parking and roadways. Grass areas used as overflow parking shall be considered as impervious surface.**

**If the impervious area is calculated to be greater than 45%, the commercial property owner may reduce the project size, or add lot width to achieve the 45% impervious area requirement. For each one-half (1/2) acre added to the base lot size, twenty-five (25) feet of lot width must be added to the frontage of the lot.**

## **6.3 General Requirements:**

### **1. Principal Building and Uses**

**A. In the Residential and General Purpose Districts one (1) principal**

building or one principal use along with one (1) accessory building or use is allowed per lot, with the size of lot to be determined by section 6.2.

- B. In the Residential and General Purpose Districts, there shall be no more than one (1) building for each principal use, and no more than two (2) buildings for an accessory use as limited by lot coverage requirements.
- C. The number of buildings and uses in the Commercial/Residential District will be determined by the maximum total lot coverage allowed for the site.

### 6.3.1 Setback Requirements

The setback requirements in all subdivisions which received Planning Board approval before March 10, 1979, and all non-conforming lots which were created before March 10, 1979, where the above dimensional setback requirements cannot be met with regard to existing structures and new construction. The setback requirements from property lines shall be as close to the requirements as possible but not less than:

- 1. Front setback 35 feet. Side and rear setback 20 feet.
- 2. Required yard space shall serve only one (1) lot.

No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

### 3. Visibility at Corner Lots

All corner lots shall be kept free from any type of visual obstructions for a distance of twenty-five (25) feet back from the edge of pavement measured along the intersecting street lines.

### 4. Building Height

- A. No structure shall exceed two and one-half (2 ½ ) stories or thirty-five (35) in height. Height is determined based on the average of finish grade taken from six (6) points within 15 feet of the structure, to the highest point of the roof. The Code Enforcement Officer may use additional points to make his / her determination.



- B. All structures, other than buildings, such as chimneys, towers, ventilators, and spires may exceed thirty-five (35) feet in height, but shall be set back a distance equal to or more than 125% of it's height from any property line.

#### 6.3.2 New Back Lots (lots without frontage on a town or private road)

May be created, provided that:

- A. All lots must meet the dimensional requirements of Article 6
- B. Back lots in the Residential District shall be laid out in such a way that a circle with a 225 foot diameter can be placed entirely within the lot boundaries.

Back lots in the General Purpose District shall be laid out in such a way that a circle with a 300 foot diameter can be placed entirely within the lot boundaries.

**Note:** Structures do not have to be within the circle as long as they meet the setback requirements of the district.

- C. The back lot (s) must have access to a publicly accepted road or a private way leading to a publicly accepted road by way of a private easement and the easement shall be constructed as required in the following table.

**Note:** Access across the road frontage lot must be by private deeded easement granted to the owner of the back lot. The minimum length of an easement from the roadway to the back lot shall be 75 feet.

Number of lots:	Minimum Width of <u>Private Easement in Feet</u>	Width of <u>Traveled Way in Feet</u>
	Width:	Width:
1	50 Ft.	12Ft.
2 or 3	50Ft.	20Ft.
More than 3	50 Ft.	24Ft.

All dead end traveled ways must install a hammerhead suitable for emergency vehicle turn around.

**Note:** Private easements for the purpose of constructing, maintaining and using access roads do not create road frontage for a back lot and are not subtracted from the road frontage ~~for a lot fronting~~ or lot area of a lot on a public or private road. Amended June 29, 2009

- D. The maintenance of the easement associated with back lots shall be the responsibility of those person(s) requiring the use of that easement for access. This maintenance requirement shall be stated in the deed

**granting the access easement.**

### **6.3.3 Drainage Improvements**

**All driveways shall have culverts installed in the ditch line of Town maintained roads unless deemed unnecessary by the Road Commissioner. Driveway culverts shall meet the following minimum requirements.**

**Minimum Size:** Fifteen (15) inch diameter or larger as determined by the Road Commissioner.

**Minimum Length:** Width of the driveway plus two times the depth to invert at the edge of the driveway.

**Minimum Cover:** Three feet at the shallow end where ditch depth allows. Downstream regrading of the road may be required.

**Materials:** Aluminized Type 2 16 gauge corrugated steel pipe, or Class IV reinforced concrete pipe or smooth bore polyethylene (HDPE) pipe equal to ADS M12 or Hancor Hi-Q.

**End Protection:** Unless deemed unnecessary pipe ends shall be riprapped as follows:

**Inlet End:** Six (6) pipe diameters wide by two (2) pipe diameters long and shall be carried one (1) foot above the top of the pipe.

**Outlet End:** Six (6) pipe diameters wide by five (5) pipe diameters long and shall be carried one foot above the top of the pipe.

**Size:**  $D - 50 = 6''$  Average size of stone shall be 6 inches in diameter or larger as required by the Road Commissioner.

**Filter:** A layer of filter fabric shall be placed on the ground prior to placing rip-rap unless deemed unnecessary by the Road Commissioner.

**Stone:** Sound durable angular stone compliant with Maine D.O.T. Standards for Bridges and Highways section 703.26 or latest revision.

## **Article 7 Administration**

### **7.1 Enforcement:**

**This Ordinance shall be enforced by the Code Enforcement Officer (s)**

appointed by the Municipal Officers.

## **7.2 Building or Use Permits:**

After the effective date of this Ordinance, no building or other structure shall be erected, moved or enlarged in area (including gross floor area) or volume without a permit issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this ordinance or by written order from the Zoning Board of Appeals. A building permit shall not be required for the replacement of roofing, siding and windows if no structural changes to the building are required as part of such work; the Code Enforcement Office shall be consulted before starting the work.

1. All applications for a Building Permit shall be submitted in writing to the Code Enforcement Office on the forms provided for that purpose. Applications may only be submitted and picked-up by the applicant or his /her authorized agent with written permission from the owner.
2. Applications shall be complete and submitted with all the accompanying information requested on the form. An incomplete application will be returned to the applicant or denied.
3. Within fourteen (14) days of the filing an application for a Building Permit the Building Inspector shall approve or deny the application.
4. A building permit secured under the provisions of this Ordinance shall expire, if work or change is not commenced within ninety (90) days of the date of issuance the Code Enforcement Officer may issue an extension for up to sixty (60) days when extenuating circumstances exist. If the work or change is not substantially completed within one (1) year of the date on which the permit was issued a renewal permit to complete the work may be issued by the Code Enforcement Officer.
5. Prior to the issuance of a building, electrical, or use permit, a fee as established by the Board of Selectmen shall be paid to the Code Enforcement Office.
6. Upon issuance of a building permit, a building permit card will be issued. This card shall be displayed within 24 hours of the issuance of the building permit on the front of the subject property visible from the road.

## **7.3 Restoration of Unsafe Property**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer. A building permit may be necessary before beginning construction.

#### **7.4 Plumbing Permit Required**

- 1. No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid plumbing permit has been secured by the owner or agent in conformance with the Maine State Plumbing Code.**
- 2. No building permit for a new residential or commercial building shall be issued without first being issued a subsurface wastewater disposal system permit in conformance with the State Plumbing Code.**

#### **7.5 Approval of Permits:**

**Permits shall not be denied if the proposed use is found to be in compliance with all Local, State and Federal codes and regulations.**

#### **7.6 Permits Issued By The Code Enforcement Officer (s) :**

**The Code Enforcement Office shall be responsible for issuing building permits, plumbing permits, electrical permits, home occupation permits as well as the related inspections.**

#### **7.7 Pending Application for Building Permits:**

**Nothing in this ordinance shall require any change in the plans, construction, size or designated use of any building, structure, or parts thereof for which application for a building permit has been made or a building permit has been issued, other than by the direction of the Zoning Board of Appeals after an appeal and decision of the board, or upon which construction commenced prior to the adoption or amendment of this Ordinance, provided construction shall start within ninety (90) days after the issuance of such permit.**

#### **7.8 Legal Action and Violations:**

**When a violation of any provision of this Ordinance, the State Plumbing Code, or any other Local, State, or Federal Land Use regulation is found to exist, the Municipal Officers may designate the Code Enforcement Officer or the Town Attorney or both to institute any and all actions and proceedings that are equitable and appropriate to enforce any and all Ordinances and Regulations using Title 30 A M.R.S.A. Section 4452 and Rule 80K of the Maine Rules of Civil Procedure.**

#### **7.9 Fines:**

**Any person, firm or corporation being the owner or having control or use of any building, premises, property or the like who violates any provision of the Ordinance or Regulation if found guilty shall be subject to civil penalties as per Title 30A M.R.S.A. Section 4452.**

**Article 8**  
**Zoning Board of Appeals**

- 8.1**
- A. All Appeals of permits, and / or land use decisions shall be based upon a written decision of the Code Enforcement Officer**
  - B. Administrative appeals and variance requests shall be heard and decided upon by the Zoning Board of Appeals.**
  - C. Appeals shall lie from the Code Enforcement Officer to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court according to State law.**
  - D. Disability and Mislocated Building Appeals.**
- 8.2 Board of Appeals:**
- 1. Establishment: A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.**
- 8.3 Appointment and Composition:**
- A. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five (5) members, and two (2) alternates, all of whom shall be legal residents of the Town of Lyman, serving staggered terms of at least three (3) years and not more than five (5) years. The Board shall elect annually a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All meetings are to be electronically taped. All minutes of the Board shall be public record. The minutes shall be on file in the Town Office and may be inspected during normal business hours by appointment.**
  - B. Vacancies on the Board shall be filled by advertising for new members, the Board may review all applications and make a recommendation on new members to the Board of Selectmen.**
  - C. A quorum shall consist of three (3) Members.**  
**If only three members are present for the meeting the applicant or agent shall be notified by the chair that they can request that the meeting be continued to a later date in the hope of a full board. An applicant will be allowed a one postponement in hope of a full board. A tie vote shall be considered a negative vote on a question or the denial of an application. All sitting members must vote.**

- D. A Municipal Officer or full-time Municipal Employee may not serve as a member of the Zoning Board of Appeals.**
- E. Any question raised by a member or an applicant of whether a particular issue involves a conflict of interest by a member sufficient to disqualify that member from voting thereon, shall be settled by the member or applicant disclosing the potential conflict at the beginning of the meeting before the case is heard. The rest of the voting members shall, after hearing the alleged conflict, by majority vote of those members voting on the question, decide if the member should step down for that part of the meeting or by a majority vote of those members voting on the question allow the member to remain a sitting member for the case in question.**
- F. If an alternate member is assigned to vote on a case that is before the board that member must have attended any meetings that were held previously on that case, or must have reviewed any minutes of previously held meetings before he or she can vote.**
- G. A member of the Board may be dismissed for just cause by the Municipal Officers after notice and a hearing. The Municipal Officers shall hold an executive session under the heading of a personal matter with the member. The member has the right to request a public hearing. As used in this section, “just cause” may include repeated absences, participation by a member in a matter in which that member has a financial interest, a member moving to another state, or any other reason determined by the Municipal Officers to interfere with the efficient operation of the Board.**

#### **8.3.1 Powers and Duties**

- A. Administrative Appeals: To hear and decide where it is alleged that there is an error in any order, requirement, decision or determination by the Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Officer may be modified or reversed by a majority vote of the Board of Appeals**
- B. Variance Appeals: To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest. The Board of Appeals shall grant a variance only by a majority vote of the board and in so doing, may prescribe conditions and safeguards as are appropriate under this ordinance.**



### **C. Disability Variance**

To allow the Board to hear and permit a variance of dimensional requirements of the Ordinance, to make a property accessible to a person or persons with a disability as defined in Title 5 MRSA, Section 4553. Such a variance shall only be granted for the installation of equipment or construction of structures necessary for access to or egress from the property by a person living on the property who has a disability. The variance shall only be valid during the period in which a person with a disability requiring the access and egress resides on the lot and shall only be granted if the Board finds that there is no other feasible location or method for providing the desired access and egress.

### **D. Mislocated Building Appeal**

The Board of Appeals may hear and decide, upon appeal in specific cases where existing buildings are found to be in violation of the setback requirements and where such location of buildings will not be contrary to the public interest whether an appeal should be granted. In order to grant a mislocated building appeal the Board must find:

1. That the violation is not due to new construction;
2. That there was no willful or premeditated action or gross negligence to build within the setback.

#### **8.3.2 Appeal Procedure:**

1. In all cases, a person aggrieved by a decision of the Code Enforcement Officer, shall commence their appeal within thirty (30) days after the decision is made by the Code Enforcement Officer.
  2. A variance request shall be accompanied by a full survey prepared by a surveyor registered in the State of Maine clearly showing the height area, size, and setbacks for which the variance is requested.
  3. All requests for an appeal shall be accompanied by the proper forms approved by the Board. The aggrieved party shall specifically set forth the grounds for the appeal.
  4. Fee shall accompany the application. Fees shall be set by order of the Board of Selectmen and shall be listed on the application forms. The application will not be accepted unless it is complete with all the information requested, and all fees are paid.
- A. The applicant is responsible for providing with the application a list of property owners within 500 feet of the site involved, including properties

surrounding the site, across the road or across a water body. The applicant shall provide a list of property owner's names, mailing addresses and Assessors Tax Map and Lot Numbers accurate to within thirty (30) days of filing the application. Within the Shoreland Zoning District the list of neighboring property owners shall consist of all properties within 500 feet of the site involved. The applicant shall also provide with the application (3) three complete sets of standard (1" X 2 5/8") mailing labels with the names and, mailing addresses of each identified neighboring property owner with the application.

- B. Following the filing of a complete application for an appeal, the Board of Appeals shall within thirty (30) days set a hearing date for that appeal. The Board shall notify the Applicant and the Code Enforcement Officer, Planning Board and Board of Selectmen at least twenty (20) days in advance of the date, time and location of the hearing. The Board shall notify all abutters within the required distance by certified mail within ten (10) days of the hearing, and also publish a notice of the hearing in a newspaper of general circulation in the area at least ten (10) days in advance of the hearing date, as to the time, date and location of the hearing, and a public notice shall be posted in the municipal building, library and Town Web-Site.**
- C. A property owner shall be considered to be the person(s) against whom property taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board of Appeals.**
- D. At any hearing the parties involved may be represented by an agent or attorney.**
- E. The Code Enforcement Officer or his / her designated representative shall attend all hearings and may make a presentation to the board as well as providing submissions appropriate for the board to better understand the appeal.**
- F. Order of Presentation shall be as follows:**

  - 1. Appellant's case shall be heard first**
  - 2. Code Enforcement Officers presentation**
  - 3. Neighboring property owners comments and or presentations**
  - 4. Open to the general public for comment**

**By a majority vote of those hearing a matter, the Board may continue the public hearing to another date to allow for a site walk or if it feels that it needs additional information**

- G. Once the public hearing is closed, the board has twenty (20) days to meet and reach a decision on the appeal. Within seven (7) days of the Board's decision a written notice stating the reasons or basis for the findings and conclusions shall be mailed or delivered-in-hand to the**

**petitioner or his / her legal representative, the Code Enforcement Officer, Planning Board, Board of Selectmen and Assessor.**

- H. If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in it's chain of title and indicating the fact that a variance was granted including any conditions, and the date the variance was granted shall be prepared in a recordable form. This certificate must be recorded in the York County Registry of Deeds within ninety (90) days of the date of the decision. The Town of Lyman staff shall record in the Registry of Deeds all variances approved or denied. The applicant shall be responsible for the cost of recording.**
- I. A variance granted under the provisions of this Ordinance shall expire if work or change involved is not substantially commenced within one year of the date that the appeal was granted, and if the work or change is not substantially completed within two (2) years.**

#### **8.3.3 Standards for Variance Appeals:**

- A. As used in this Ordinance, a variance is authorized only for height, area, size of structure, size of yard or open spaces. A variance shall not be granted because of the presence of non-conformities in the Zoning Districts. The Board of Appeals shall grant a variance only by majority vote of the Board and in doing so, may prescribe conditions and safeguards as are appropriate under the Ordinance.**
- B. Except as provided in Subsection C and D, the Board may grant a variance only when strict application of the Ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:**
  - 1. The land in question cannot yield a reasonable return unless a variance is granted;**
  - 2. The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;**
  - 3. The granting of the variance will not alter the essential character of the locality; and**
  - 4. The hardship is not the result of action taken by the applicant or prior owner.**
- C. In order for a variance to be granted all four of the hardship conditions listed above must be met. Also the term "yield a reasonable return" is a condition that does not relate to a monetary value.**

**Article 9**  
**Planning Board and Staff Review Committee**  
**Site Plan Review**

**9.1 Authorization:**

**The Planning Board and the Staff Review Committee are hereby authorized to hear, and decide upon applications for Site Plan Review, that each Board or Committee is authorized to review, approve, or approve with conditions in accordance with State Law and the provisions of this Ordinance, along with any other regulations and standards of the Town of Lyman. The Planning Board is also authorized to review and approve or approve with conditions Subdivisions in accordance with State Law, the provisions of this Ordinance, along with the Subdivision Standards of the Town of Lyman.**

**9.2 Powers and Duties:**

- A. The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove applications for Site Plans Review and Subdivision. No building permit(s) shall be authorized without first receiving Site Plan Review approval for the uses listed within this Ordinance that require Site Plan review.**
- B. The Staff Review Committee shall have the authority to review and grant a Site Plan Review approval in accordance with the procedure specified in Section 9.9.1 of this Ordinance.**

**9.2.1 Vacancies on the Board shall be filled by advertising for new members. The Board may review all applications and make a recommendation on new members to the Board of Selectmen.**

**9.2.2 If any alternate member is assigned to vote on an application that is before the board, that member must have attended any meetings that were previously held on that application, or shall have reviewed any minutes of previously held meetings before they can vote on the project.**

**9.2.3 A member of the Board may be dismissed for just cause by the Municipal Officers after notice and a hearing. The Municipal Officers shall hold an executive session under the heading of a personal matter with the member. The member has the right to request a public hearing. As used in this section, “just cause” may include repeated absences, participation by a member in a matter in which that member has a financial interest, a member moving to another state, or any other reason determined by the Municipal Officers to interfere with the efficient operation of the Board.**

**9.3 Application Procedure:**

- A. A person informed by the Code Enforcement Officer that Site Plan Review is required, shall file an application for the review with the Planning Board on forms provided for that purpose. The applicant may request a non-binding pre-application meeting.**
- B. It is recommended that the applicant fill out a pre- application form for a pre-application meeting with the Planning Board. This meeting is a non-binding meeting that will allow the applicant to explain a project to the board, and allow the board to ask questions and comment on the project. The applicant may then submit a full application for review.**
- C. When an application is submitted to the Planning Board for a commercial project on any Base Lot #1 which abuts the Commercial/Residential District portions of Routes 111, or 5 and 202, the Applicant/Owner must submit to the Planning Board a completed application for Site Plan Review.**
- D. When an application is submitted to the Lyman Planning Board for a commercial project on any Base Lot #2, the Applicant/Owner must submit to the Planning Board a completed application for Site Plan Review.**

#### **9.3.1 Application & Fees**

- A. For a pre-application meeting, a pre-application form must be submitted to the Code Enforcement Officer on the form provided. The Board shall place pre-applications at the beginning of the agenda. No public mailing notice is required for per-applications.**

#### **Fees**

**The Board of Selectmen shall set the fee for Site Plan Review with a recommendation from the Planning Board after reviewing the cost of staff time, postage, recording fees, etc.**

- B. Following the filing of an application, the Board shall review the application for completeness using the check list provided to the applicant. Once the Board votes that the application is complete the Board may require a site walk. Before the Board can take action on any application, the Planning Board shall hold a public hearing on the application within forty-five (45) days of the Board's determination that the application is complete. The Planning Board shall notify the Code Enforcement Officer, Board of Selectmen and the Zoning Board of Appeals at least twenty (20) days in advance of the public hearing. The notice shall include the date, time and location of the hearing. The Board shall notify all neighboring property owners within the required**

distance by certified mail at least ten (10) days in advance of the hearing, and also publish a notice of the hearing in a newspaper of general circulation in the area at least ten (10) days in advance of the hearing date, including the time, date and location the hearing. A public notice shall be posted in the municipal building, library and Town Web-Site.

- C. The applicant is responsible for providing with the application a list of owners of property within five hundred (500) feet of the site involved, including properties surrounding the site, across the road or across a water body. The applicant shall provide a list of property owners names, mailing addresses and Assessor's Tax Map and Lot Number accurate to within thirty (30) days of filing the application.

The applicant shall also provide with the application (3) three complete sets of standard (1" X 2 5/8") mailing labels with the names, mailing addresses, of each property owner within five hundred (500) feet of the property with the application.

- D. The owners of property shall be considered to be those against whom property taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Planning Board.
- E. The Board shall notify by certified mail, the applicant and owners of property within 500 feet as per notice list of the property involved at least ten (10) days in advance of the public hearing the nature of the application, and the time and place of the public hearing. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action taken by the Board or Committee.
- F. The Code Enforcement Officer or his designated representative will attend a hearing if the Board requests their presence.
- G. At any hearing, a party may be represented by an agent or attorney.
- H. A public hearing may be continued to another date if the Board feels that it has good cause, including but not limited to requests for additional information or an additional site walk. A majority vote of the Board is required to continue the public hearing.
- I. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

- J. Once the public hearing is closed, the board has thirty ( 30 ) days to meet and reach a decision to approve or deny the site plan application. The thirty days may be extended if needed by agreement of the Board and the applicant, and within seven, (7) days of the Board's decision a written notice stating the Board's action(s) shall be mailed or delivered-in-hand to the applicant or his / her legal representative, the Code Enforcement Officer, and Board of Selectmen and Assessor**
- K. Upon notification of the decision of the Planning Board, and notification that the Site Plan Review approval has been recorded (see section 9.4 D) the Code Enforcement Officer as instructed shall issue, issue with conditions or deny a Building Permit.**
- L. A Site Plan Review approval secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not substantially commenced within one (1) year of the Boards approval date, and completed within two (2) years of the approval date.**

#### **9.4 Standards for Site Plan Review Applications:**

- A. Site Plan Review approval is designed to permit those uses which are permitted within a zoning district, and to be reviewed by the proper reviewing authority. The standards set forth in the ordinance are designed to ensure adequate control of the location, design and operation of such uses.**
- B. The Planning Board may approve or approve with conditions an application for Site Plan Review if the applicant demonstrates that the proposed use:**
  - 1. Will meet the definition of the use, meet the Zoning District requirements and any other requirements set forth in this Ordinance;**
  - 2. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties as a result of noise, vibrations, fumes, odor, dust, light, glare, traffic, or other cause;**
  - 3. Will not have a significant adverse effect on adjacent or nearby property values.**
  - 4. Will not create a significant hazard to pedestrian or vehicular traffic or significant traffic congestion;**
  - 5. Will not result in significant fire danger;**

- 6. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination or soil erosion;**
  - 7. Will not create a safety hazard because of inadequate access to the site, or buildings for emergency vehicles;**
  - 8. Has proposed exterior lighting which will not create hazards to motorists traveling on adjacent public streets, is adequate for the safety of occupants and users of the site, and will not damage the value or diminish the usability of adjacent properties;**
  - 9. Makes provisions for buffers and on-site landscaping which provide adequate protection to neighboring properties from detrimental features of the development. The applicant shall provide a plan prepared by a Registered Landscape Architect, or other qualified professional approved by the Planning Board.**
  - 10. Makes provisions for vehicular parking, loading, unloading, as well as vehicular and pedestrian circulation on the site, and onto adjacent public streets which would neither create hazards to safety nor impose significant burdens on public facilities;**
  - 11. Makes adequate provisions for the disposal of wastewater and solid waste for the prevention of ground or surface water contamination;**
  - 12. Makes adequate provisions to control erosion and sedimentation;**
  - 13. Makes adequate provisions to handle storm water run-off and other drainage on the site;**
  - 14. Provides for a water supply which meets the demands of the proposed use, and meets the needs for fire protection purposes;**
  - 15. Makes adequate provisions for the transportation, storage and disposal of hazardous substances and materials as defined by State and Federal Law;**
  - 16. Will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan**
- C. The Board shall discuss each of the sixteen (16) criteria listed above and take a formal vote on each one before moving on to the next one. The Board must vote in the majority to pass or fail each criterion. If any of the criteria fail after all sixteen are voted upon, the Board may allow the applicant to change or modify the plan to satisfy any failed criteria before the Board takes its final vote on the project. If all**



sixteen criteria receive a passing vote, the Board shall approve or approve with conditions the plan. If any of the criteria fail to pass, the Board shall deny the project.

- D. All findings by the Planning Board shall be written and state the reason for each of the findings. The Site Plan Review approval must be recorded in the York County Registry of Deeds within fifteen (15) days of the expiration date of the appeal period as set by State Law. The Town of Lyman staff shall record in the Registry of Deeds all Site Plan Review approvals which are approved or denied at the applicant's expense for recording.

#### **9.5 Technical Assistance:**

The Planning Board may at its discretion forward a copy of the application and plans as well as all supporting documentation to any appropriate technical expert(s) for review. The review may include traffic impact, roadway and parking design and construction, storm-water management and erosion and sedimentation control, as well as any other concerns of the reviewing authority. The applicant shall pay for the employment of any such experts. The applicant shall be informed of the intended use of such services and their approximate cost. A deposit equal to 125% of the estimated cost shall be paid to the Town prior to the employment of any such technical experts. The total cost of any review (s) shall be paid in full by the applicant prior to the signing of any approved plans or issuance of any permits. If the entire deposit is not expended, the remaining balance shall be returned to the applicant once the project is approved or denied.

#### **9.6 Data Requirements:**

Any application presented for approval shall include the following information:

1. A site plan drawn at a scale not smaller than one inch equals forty feet 1" = 40'
2. The name and address of the applicant plus the name of the proposed development.
3. Total floor area, ground coverage and location of each proposed building, structure or addition.
4. Perimeter survey of the parcel, made and certified by a registered land surveyor licensed in Maine, relating to reference points. Plan is to show true or magnetic North, a graphic scale, corners of the parcel, date of survey and total acreage
5. All existing and proposed setback dimensions.

- 6. The size, location, direction and intensity of illumination of all major outdoor lighting apparatus and signs.**
- 7. The type, size and location of all incineration devices.**
- 8. The type, size and location of all machinery likely to generate appreciable noise at the lot lines, as well as estimated decibel level at property lines.**
- 9. The location, type and size of all existing and proposed catch basins, storm drainage facilities, wetlands, streams and watercourses as well as all utilities, both above and below ground.**
- 10. All existing contours and proposed finished grade elevations of the portions of the site which will be altered and the system of drainage proposed to be constructed. Contour intervals shall be specified by the Planning Board.**
- 11. The location, type, size of all curbs, sidewalks, driveways, fences, retaining walls and parking space area and layout thereof, together with dimensions**
- 12. All landscaped areas, fencing, size and type of plant material upon the premises.**
- 13. All existing or proposed rights-of-way easements and other legal restrictions which may affect the premises in question.**
- 14. The property lines of all properties abutting the proposed development, including properties across a street, or across a water-body, together with the tax map and lot numbers, and property owners names and mailing addresses on file at the Town Office within 10 days of the filing of the application.**
- 15. An appropriate box on each page of the plans for the signature (s) of the Planning Board.**
- 16. Documentation of right, title or interest in the proposed site.**
- 17. An on-site soils investigation report by a Maine State Licensed Site Evaluator. The report shall identify the type of soil, location of test pits and the proposed location and design for the subsurface disposal system.**
- 18. The type of any raw, finished or waste materials to be stored inside or outside of roofed buildings, including their physical and chemical properties, if appropriate.**

**19. Traffic Data:** The Planning Board may require that the application include a traffic engineering study, should the project be considered one of substantial magnitude along any of the town's state highways where fast moving traffic occurs (i.e., Route 111, 35 or 5). Should a traffic study be requested by the Planning Board, the following data shall be included:

- A.** The estimated peak-hour traffic to be generated by the proposal.
- B.** Existing traffic counts and volumes on surrounding roads.
- C.** Traffic accident data covering the last three years
- D.** The capacity of surrounding roads, municipal facilities, parking and any other improvements, which may be necessary on such roads and facilities to accommodate anticipated traffic generation.
- E.** The need for traffic signals and signs or other directional markers to regulate anticipated traffic.

**20.** Any other information or data the Planning Board determines is necessary to demonstrate compliance with Town, State and Federal Regulations.

## **9.7 Appeals**

Any person aggrieved by a final decision of the Planning Board on a site plan application may appeal that decision to the Zoning Board of Appeals within thirty (30) days of the Planning Board's decision. The review by the Zoning Board of Appeals shall be on an appellate basis and shall be limited to a review of the record developed before the Planning Board. The person(s) submitting the appeal and any opponents to the position of that person(s) may make written and/or oral presentations to the Zoning Board of Appeals about why they feel the decision of the Planning Board was correct or incorrect. The Zoning Board of Appeals shall only reverse the decision of the Planning Board if it determines that the decision contained a procedural error or was clearly contrary to the Ordinance. Any appeal from a decision of the Zoning Board of Appeals under this section shall be made to the Superior Court within forty-five (45) days after the date of that decision.

## **9.8 Violations and Penalties**

Failure to comply with any conditions of the approval shall be a violation of this Section and shall be grounds for revoking the approval, initiating legal proceedings to enjoin construction of the development or any specific

activity violating the conditions of the plan approval or applying the legal penalties detailed in Sections 7.8 and 7.9.

**9.9 Staff Review Committee:**

The Staff Review Committee shall include the Code Enforcement Officer, Road Commissioner, Assessor, Fire Department Officer and one member of the Board of Selectmen who shall chair the meetings.

**9.9.1 The Staff Review Committee shall have the authority to grant Site Plan Review approvals on the following applications.**

- 1. A change of use from one permitted use to another permitted use without any increase in gross floor area or building size, as long as the parking requirements do not increase by more than 8 spaces.**
- 2. An expansion of an existing use by not more than 1000 sq. ft. of gross floor area / or land area in any five year period. (Area of required increased parking shall not be included in the area calculation).**

A new use / or a change from a use which did not require a site plan review, to a use which would require a site plan review that will occupy a gross floor area / and or land area of 2500 sq. feet or less (excluding parking areas) in any five (5) year period.

**9.9.2 The Staff Review Committee shall approve or approve with conditions an application for site plan review for the uses listed in sections 9.9.1 – 1 to 4, if the applicant demonstrates that the proposed use will meet the standards of sections 9.4 B – 1 to 16, section 9.4 C, and sections 9.5 and 9.6. The Staff Review Committee may require an applicant to submit any other information that it determines is necessary to demonstrate compliance with Town regulations.**

**9.9.3 Meetings will be held as needed on the second and fourth weeks of each month. Meetings shall take place during normal business hours of the Town Hall. Dates and times will be set by the committee.**

**9.9.4 Six complete copies of the application and site plan shall be submitted to the Code Enforcement Office at least 14 days prior to the date the Committee meets. The application shall be accompanied by the fee.**

**9.9.5 Fees: Fees shall be set by order of the Board of Selectmen.**

**9.9.6 Appeals:**

Any person aggrieved by a final decision of the Staff Review Committee on a Site Plan application may appeal that decision to the Planning Board within thirty (30) days of the Staff Review Committee's decision. The Planning Board may review the records developed before the Staff

Review Committee, but shall also have the authority to accept new evidence that may be relevant to the application. The Planning Board shall conduct a de novo hearing on the application and shall make its own findings and conclusions as to whether the Ordinance standards have been met.

#### **9.9.7 Violations and Penalties**

Failure to comply with any conditions of the approval shall be a violation of this section and shall be grounds for revoking the approval, initiating legal proceedings to enjoin construction of the development or any specific activity violating the conditions of the plan approval or applying the legal penalties detailed in Sections 7.8 and 7.9.

### **Article 10 General Town Wide Regulations**

- 10.1** All lots, structures and uses shall comply with the dimensional requirements specified for the district in which they are located.
- 10.2** The keeping of any animal(s) for personal use or enjoyment other than normal household pets shall not take place in the Residential District or on lots under two (2) acres in other Districts.
- 10.3** No manufactured home which was manufactured before June 15, 1976, may be brought into the Town of Lyman.
- 10.4** Land which is within a private right-of-way ~~or easement~~ which abuts a lot shall not be considered as part of the lot for the purpose of meeting the lot area or setbacks requirements of the Ordinance.
- 10.5** Multiple non-residential uses and accessory uses, may be located within one building if the lot meets the lot size requirements of the district, and can meet the setback and parking standards for the district.
- 10.6** Accessory Dwelling Units:  
One accessory dwelling unit shall be permitted within an owner-occupied single family dwelling in all districts which meet the following conditions;
- 10.6.1** The lot on which the accessory dwelling unit is situated meets all the current dimensional requirements of the district.
- 10.6.2** The accessory dwelling shall contain no more than one bedroom, kitchen area, living room and a bathroom, and shall not exceed 600 square feet of habitable floor area.
- 10.6.3** The accessory dwelling unit shall be located in the same building or a

**building attached to the principal structure. If the accessory dwelling unit is located in the basement of a single family dwelling it must meet the egress standards of the NFPA Life Safety Code #101 as well as all other required codes and standards.**

**10.6.4 Egress must be through the principle structure, or a breezeway although a secondary egress may be allowed in the rear of the building.**

**10.6.5 The building containing the accessory dwelling unit shall have the exterior appearance of a single family home.**

**10.6.6 The unit must comply with all applicable building codes, and expansion criteria of the Maine State Subsurface Wastewater rules.**

**10.6.7 Driveways longer than 200 feet must provide an adequate emergency vehicle turnaround.**

**10.6.8 On street parking will not be permitted. Additional parking and turnaround space must be provided if needed.**

**10.7 Stormwater Management and Erosion and Sedimentation Control:**

**Storm-water runoff shall be managed and directed through surface or subsurface drainage systems designed to accommodate the drainage flow based on a 25-year, 24 hour storm event. Storm-water retention practices shall be employed to minimize impact on neighboring and downstream properties. In areas of aquifer recharge, storm-water infiltration (after separation of leachable harmful substances) shall be required. Where retention / infiltration is unwarranted or unfeasible, offsite improvements to natural or man-made drainage systems may be necessary to increase capacity and prevent erosion at the developer's expense. The natural state of watercourses, swales or floodways shall be maintained.**

**Earth moving operations associated with development construction activities shall be conducted in a manner to prevent or minimize erosion and sedimentation of surface water. Location of structures and roadways shall be designed using existing topography in a manner in which any slope modification will not jeopardize the slope stability. Surface water drainage shall be designed to minimize erosion and sedimentation through the use of trenches, berms, run-off diversion ditches and grassed waterways. Where sedimentation may occur during construction phases, temporary sedimentation control measures, such as vegetated filter strips and sediment basins or traps, shall be incorporated into the construction plans. Permanent storm drainage structures, inlets and outlets shall minimize water velocities in erodible soil.**

**10.8 Mineral Extraction and Earth Moving Activities:**

**The following provisions shall apply to filling, lagooning, dredging, mineral extraction and other earth-moving activity.**

**10.8.1 The following earth moving activities shall not requiring a Site Plan Review approval.**

- A. The removal or filling of less than fifty (50) cubic yards of material from or onto any lot in any one year.**
- B. The removal or filling of material incidental to construction, alteration, or repair of a building or grading and landscaping incidental thereto; and**
- C. The removal, filling or transfer of material incidental to construction, alteration or repair of public ways or essential services.**

**All other earth moving, processing and storage shall require a Site Plan Review approval.**

**10.8.2 Application for Site Plan Review:**

**An application for Site Plan Review for excavation, processing and storage of soil, loam, sand, gravel, rock and any other mineral deposits shall be accompanied by a plan prepared by a Registered Land Surveyor and or Registered Professional Engineer which shall show the following:**

- 1. Location map (paper & digital), boundary survey, engineered plans.**
- 2. Evidence of Right title or interest in the property, to include the name, address of the owner(s) of the property involved.**
- 3. Hydrogeologic study to determine impacts to the local groundwater systems and any neighboring wells. The location of neighboring wells shall be shown as follows:**
  - A. Any drilled wells within one hundred (100) feet of any boundary of the property.**
  - B. Any dug well or driven point within two hundred (200) feet of any boundary of the property.**
- 4. Access road must be shown on the plan and shall be paved in a minimum of 150 feet from the main road with a minimum width of 20 feet. An entrance permit may be required by M.D.O.T, if so, a copy must be submitted to the Board. Also a gate must be installed 150 feet into the access road and shown on the plan. The gate shall be locked. A**

**sign with the name of the owner / operator along with an emergency phone number and the hours of operation shall be on the gate.**

- 5. Access road maintenance, air emissions and dust control methods shall be shown on the plan as a note. Also “notes on the plan” shall state how the paved roadway will be kept clean and dust free by watering or other means. Calcium chloride or an equivalent will be used on gravel road areas so as to minimize visible dust during working hours.**
- 6. Existing and proposed drainage.**
- 7. Existing and proposed surface water runoff.**
- 8. The methods of removal or processing shall be described in notes on a construction plan.**
- 9. The location of any permanent buildings on the property (limit of two) any temporary structures and any subsurface wastewater disposal systems if applicable.**
- 10. Groundwater quality.**
- 11. All buffer strips, as required by section 10.8.3**
- 12. Note on the plan the hours of operation set by the Planning Board.**
- 13. Note on the plan that crushers and screeners can only be used between the hours of 7 A.M. and 4 P. M. Monday through Friday, and there shall be no crushing or screening on Saturday, Sunday, or any State or Federal holidays.**
- 14. Open acreage must be noted on the plan. Each year within one month of the anniversary date of the Site Plan Review approval, a Licensed Surveyor must send the Code Enforcement Office a letter stating that the pits open area is in compliance with the condition(s) shown on the approved plan.**
- 15. Setback(s) of mining operations from Town or State road right-of-ways. The setback(s) shall be determined by the Planning Board but in no case be less than 100 feet.**
- 16. Reclamation: The owner / operator must submit to the Town of Lyman a check in an amount to be set by the Planning Board based upon the amount of open pit area. The funds are to be placed in an escrow account in the name of the Town for reclamation in the event of the owner / operators default.**
- 17. A refueling pad 15' x 20' or larger made of concrete shall be built and shown on the plan.**



- 18. Submit to the Planning Board letters from the following agencies:**
- A. Goodwins Mills Fire Dept. stating that they will be able to provide emergency services to the property.**
  - B. Dept. of Inland Fisheries & Wildlife about any wildlife concerns.**
  - C. Maine Historic Preservation Commission.**
  - D. DEP permit(s)**
- 19. Trucks Entering signs shall be located on the main roadway as required by the Planning Board.**
- 20. Monitoring wells shall be located in the pit area as required by the Planning Board. The monitoring wells must be checked yearly between April 1<sup>st</sup> and May 31<sup>st</sup> by a licensed surveyor or engineer and a report submitted to the Code Enforcement Office stating the level of ground water in relation to the bottom of the pit area.**
- 21. An erosion and sediment control plan must be submitted as required by the Planning Board.**
- 22. Any other information the Planning Board may require to make an informed decision.**
- 23. The Planning Board may require Technical Assistance as set forth in Section 9.5**

#### **10.8.3 Conditions of Approval:**

**The Planning Board may authorize a Site Plan Review approval provided the following conditions are met.**

- A. The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.**
- B. Temporary ground cover such as mulch shall be used. The Planning Board shall set a specific date by which permanent groundcover shall be planted.**
- C. Diversions, silting basins, terraces, and other methods to trap sediment shall be used.**
- D. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Inland Fisheries and Game, as applicable, prior to consideration by the Planning Board.**
- E. The extent and type of fill shall be appropriate to the use intended.**

**The applicant shall specify the type and amount of fill to be used.**

- F. Fill shall not restrict a floodway, channel, or natural drainageway.**
- G. The sides and bottom of cuts, fill, channels, and artificial water courses shall be designed and built according to the Maine Soils and Water Conservation Commission, “Technical Guide Standards and Specifications”.**
- H. With the following exception for gravel pits in lawful operation at the time of this amendment. No excavation shall be allowed within one hundred fifty (150) feet of a lot with an existing residential use or within fifty (50) feet of a property line on which no residential use exists as of the date of the application, unless abutting property owners agree in writing to a lesser setback. Said agreement(s) shall be recorded at the York County Registry of Deeds within ninety (90) days. No excavation shall be allowed within one hundred (100) feet of the edge of a public way.**

**Exception:**

**No below-grade excavation, except for drainage ways, shall be allowed within fifty (50) feet of any lot line or within one hundred (100) feet of the edge on the right-of-way of any public way except by written agreement with abutting property owner(s). With this agreement, the setback may be reduced to zero (0) feet.**

- I. Topsoil or loam shall be restored to a depth of not less than four (4) inches.**
- J. At the discretion of the Planning Board the applicant shall submit written approval from the appropriate Soil and Water Conservation District.**
- K. Natural vegetation shall be retained within the buffer area, except as recommended by a professional forester pursuant to best forest management practices and approved by the Planning Board, to the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening, a berm or a combination where there is inadequate natural buffer. The extent necessary to protect neighboring uses from dust may be determined by the Code Enforcement Officer based on the following criteria.**
  - 1. Dust plumes or clouds, visible to the naked eye, exist in the air at the property line(s) between properties on which earthmoving activities take place and residential use exist.**
  - 2. Residual dust, characteristic of that generated by earthmoving activities, is evident on vehicles, clothing hung on lines outdoors,**

in swimming pools, and on other surfaces on properties with existing residential uses and the source of the dust can be identified as a property upon which earthmoving activities are taking place.

3. Complaints about dust by residents that can be substantiated by evidence as described in 1. and 2. Above.
4. The opacity of the air over the earthmoving activities as measured by Certified C.E.O. in conformance with Chapter 101: Visible Emissions Regulations, D.E.P. Positive findings of all the above criteria by the C.E.O. are sufficient evidence that said earthmoving activity is in violation of Section 7.8
5. Excavation may not occur within five (5) feet of the seasonal high water table. If standing water already exists in excavated areas, no further excavation that would result in an increased area of standing water shall be allowed. Notwithstanding the forgoing, the Town of Lyman may allow excavation to extend to or below the water table and an area of standing water may be increased through excavation if the Maine Department of Environmental Protection and the Lyman Planning Board approves such excavation. At least one monitoring pit or monitoring well must be maintained on each five (5) acres of excavation, said well to be monitored annually between April 1<sup>st</sup> and May 31<sup>st</sup>.

**L. Optional Conditions of Approval:**

The Planning Board may impose other reasonable conditions to safeguard the neighborhood and the Municipality, which may include those relating to:

1. Methods of removal or processing;
2. Hours of operation;
3. Type and location of temporary structures;
4. Routes for transporting material;
5. Area and depth of excavations;
6. Provisions of temporary or permanent drainage;
7. Disposition of stumps, brush, and boulders;
8. Cleaning, repair, and / or resurfacing of streets used in removal Activity which have been adversely affected by said activity; and
9. An escrow account to insure compliance with conditions of approval.

**M. Time Period of Approval:**

No approval shall be issued for a period to exceed three (3) years, although such approvals may be renewed for additional periods in the same manner.

**N. Existing Operations:**

**Any operation involving excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this Ordinance becomes effective may operate under the existing conditions of their Planning Board approval. The owner / operator must submit a complete renewal application within ninety (90) days of the expiration date of the existing approval in order to continue to operate.**

**10.9 Landscaped / Buffers:**

**The setback area along all property lines other than the right-of-way side in non-residential districts shall be landscaped to provide a visual screen between residential and non-residential uses. Parking areas, outdoor business storage areas, which abut a residential district shall be landscaped to provide a visual screen between residential and non-residential uses. The applicant shall provide a landscape plan prepared by a Registered Landscape Architect or other qualified professional approved by the Planning Board.**

**10.10 Light and Glare:**

**Exterior illumination shall be designed to eliminate glare and to minimize the illumination of abutting properties or roadways to no more than two (2) foot candles. The applicant shall submit photo metrics for the light fixtures proposed. Any illumination or glare, which would impair the vision of vehicle drivers is prohibited.**

**10.11 Lodging Facilities:**

**Any rental unit or room in a bed and breakfast or a hotel / motel which exceeds 470 square feet or a housekeeping cottage which exceeds 600 square feet shall meet the density requirements for a dwelling unit located in the same district.**

**10.11.1 All lodging facilities shall have a staffed office located within 150 feet of the site which rents and manages all the units within the lodging facility.**

**10.11.2 All units in a lodging facility, other than the unit occupied by the resident manager, shall be available to the traveling public and shall not be reserved for the exclusive use of the owner, his family, friends, or co-owners.**

## **10.12 Noise:**

**The maximum permissible sound pressure level produced by any existing or future activity on a lot shall not exceed the following limits measured at any lot line of any receiving property at a height of at least four feet above the ground.**

	<b>7:00 a.m. to 10:00 p.m.</b>		<b>10:00 p.m. to 7:00 am</b>	
	<b>dB(A)</b>	<b>dB(C)</b>	<b>dB(A)</b>	<b>dB(C)</b>
Commercial/ Residential:	70	82	60	70
General Purpose:	65	75	55	58
Residential:	60	70	55	58

**Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.**

**10.12.1 In any one day the sound pressure levels emitting from a lot may exceed the above standard by 10 dB (A) for a single period not to exceed fifteen minutes.**

**10.12.2 Exemptions: The following shall be exempt from the standards;**

- 1. Natural phenomena.**
- 2. Any signal lawfully used by emergency vehicles, or alarm or warning device used in an emergency situation.**
- 3. Warning devices required by OSHA or other government safety regulations.**
- 4. Farming activity or equipment between 7 a.m. and 10 p.m.**
- 5. Timber harvesting and milling between 7 a.m. and 10 p.m.**
- 6. Noise generated by any construction or demolition equipment domestic power equipment such as but not limited to chain saws, sanders, grinders, lawn and garden tools or similar devices operated between the hours of 7 a.m. and 8 p.m.**
- 7. Emergency maintenance, construction or repair work.**
- 8. Noise created by refuse and solid waste collection between the hours of 6 a.m. and 8 p.m.**

**9. Noise created by any municipal sponsored event without being electronically or mechanically enhanced.**

**Enforcement:** This section is enforceable by a law enforcement officer or by the Code Enforcement Officer, who may measure noise levels and document a violation. For the purpose of enforcement sounds exceeding the above limits may be deemed to constitute loud and unreasonable noise under 17A- MRSA Section 501 (Offenses Against Public Order: Disorderly Conduct).

**10.13 Off-Street Parking Standards:**

**10.13.1** Off street may be provided out-of-doors or within a building. Off-street parking shall be considered to be an accessory use when provided to serve any permitted or non-conforming use. In the calculation of the number of spaces required any fractional number of spaces shall be rounded to the next highest whole number.

**10.13.2** Land may not be used and a building may not be occupied until off-street parking and or loading facilities are provided.

**10.13.3 Design Standards:**

All parking areas containing three or more parking spaces, except those serving one or two family dwellings shall be designed according to the following criteria;

Parking Angle (degrees)	Stall Width (feet)	Skew Width (feet)	Stall Depth (feet)	Aisle Width (feet)
90	10	na	19	26
60	9	11	19	16 one way
45	9	13	18	12 one way
30	9	17	18	12 one way
180	24	na	9	13 one way
				26 two way

**10.13.4** Every business, commercial, institutional, public and non-profit use shall provide a minimum of four (4) percent of the total parking spaces for vehicles with handicapped registration plates one (1) percent of the spaces for van parking, but in no case less than one H. C. space.

Passenger car spaces shall be 14' x 19', Van spaces shall be 16' x 19'. All required parking spaces shall be clearly

**designated with a sign no smaller than 9 inches wide and 12 inches high, posted four feet off the ground.**

**10.13.5 Required Parking Spaces:**

**Banks:** One per 250 square feet of gross floor area, plus six stacking spaces for the first drive-up window, plus two per additional drive-up window.

**Contractor Business:** One space for every 800 square feet of gross floor area, but not less than four spaces.

**Day Care:** One per 200 square feet of floor area used for child care, plus three.

**Lodging Facilities:** One and one tenth spaces for each sleeping room available to the traveling public.

**Manufacturing:** warehousing and wholesale businesses one space per 800 square feet of gross floor area but not less than four spaces.

**Medical care facility:** One per bed, plus one per 175 square feet of office space.

**Office:** Three and one half spaces per 1000 square feet of gross floor area but not less than four spaces.

**Retail:** One per 200 square feet of gross floor space but not less than four spaces.

**Restaurant, standard:** one space for each three seats, plus four spaces.

**Restaurant, fast food:** One per 30 square feet of gross floor area.

**Schools:**

**Elementary, Junior High:** Three per class room and any other room used by students, plus one space for each five students.

**High School:** Three per class room and any other room used by students, plus one space for each three students.

**Theaters:** auditoriums, function halls, clubs, churches and other places of assembly; One parking space for each three seats, based on occupancy load, plus five

spaces.

For uses not listed above, the number of parking spaces required shall be determined by the Planning Board. The Planning Board may ask the Code Enforcement Officer for an opinion on the number of spaces that should be required

- 10.13.6** Loading bays or docks may be required by the Planning Board.
- 10.13.7** Required off-street parking shall be located on the same property that it serves, or within 300 feet of the principal building or use, on the same side of the street or road. Off-site parking shall be located on property that is owned or leased by the owner of the property served by the off-site parking.
- 10.13.8** Plans for the parking area must show snow storage areas that do not reduce the required number of parking spaces.
- 10.13.9** All parking areas shall be designed to prevent storm water run-off from flowing directly or being piped directly into a water-body, to allow for the settling of sediment and the removal of grease, oil, and other pollutants.
- 10.13.10** All parking areas shall have a firm surface such as bituminous concrete or Portland concrete.
- 10.14** **Restoration of Recycling Facilities:**
- All recycling facility operators, except the Town of Lyman shall provide one of the following performance guarantees for an amount adequate to cover the total decommissioning costs and/or all site restoration improvements, taking into account the time span of the restoration schedule and inflation rate:
- 1. A certified check payable to the Town;**
  - 2. A savings account or certificate of deposit naming the Town as owner;**
  - 3. An escrow account established for the benefit of the Town.**
- The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, Selectmen, Town Attorney and if needed a professional engineer. No performance guarantee shall be reduced in amount without the Town's prior written approval.



**10.15 Signs:**

**10.15.1 All signs shall comply with the following regulations:**

- A. No sign shall cover window casings, door casings, or any architectural ornamentation of a building.**
- B. Signs shall be attached to the ground or to a building.**
- C. No sign shall project beyond a lot line (s)**
- D. No sign shall project above a flat roof or the ridgeline of any other roof.**
- E. No sign shall obstruct a driveway or required parking space.**
- F. No sign shall be attached to utility poles, trees, or traffic control signs or devices.**
- G. No sign shall be drawn or painted upon rock outcroppings or other natural features.**
- H. No sign shall obstruct or impair the vision of vehicular and pedestrian traffic or otherwise constitute a hazard. No sign shall reduce the sight distance from any driveway, road or street below a distance of ten feet for every mile per hour of the posted speed limit. Sight distance shall be measured from the drivers side of an exit lane 10 feet behind the curb or edge of shoulder line with the height of the eye ranging from 3.5 to 6 feet above the pavement.**
- I. Exterior lit signs may only be illuminated by a white light, sodium vapor, neon or a mercury vapor light. The source of the illumination (i.e., bulb) from any sign shall not be visible beyond any lot line.**
- J. If a nonconforming free-standing sign and its supports are removed except by casualty, it shall not be reinstalled or replaced unless it complies with the requirements of the ordinance.**
- K. The following types of signs are prohibited: Signs which contain motorized or mechanized moving parts, such as rotating signs, motor or wind-driven propellers or waving arms, animated signs, flashing or intermittent signs – sandwich board or A-frame signs, and any other sign that does not meet the requirements and conditions of this Ordinance.**
- L. A-frame or trailer mounted signs are allowed for 30 days once a year by permit from the Code Enforcement Officer.**

- 10.15.2**      **The following signs or exempt from the regulations:**
- Informational signs of less than 2 square feet such as “entrance”, “exit”, “restrooms”, “no parking”, “no trespassing”, “private property”,**
- Building permit placards,**
- Official notices posted by public officials,**
- Flags of any nation not to exceed a total of 50 square feet for all such flags,**
- Religious symbols or insignia,**
- Decorations customary in observance of a national holiday,**
- Signs for the control of traffic, - Street signs, - Signs indicating danger,**
- Signs identifying public schools and government buildings.**
- 10.15.3**      **Political signs of less than 20 square feet relating to an election, primary or referendum provided that these signs may be erected no more than six weeks before voting day , and must be removed no later than one week thereafter.**
- 10.15.4**      **The following non-illuminated signs are permitted in all districts without a permit.**
- A.    A single sign of less than six square feet identifying the name and address of the residents of a dwelling,**
- B.    One “For Sale” sign up to six square feet is allowed on each Property offered for sale,**
- C.    One contractor’s signs one sign up to six square feet is allowed on a property on which the contractor is performing work. The sign may identify the contractor’s name, address, and phone number. A contractors sign shall be removed within five (5) days of the completion of the job.**
- 10.15.5**      **The following signs are permitted in all districts upon obtaining a sign permit from the Code Enforcement Officer.**
- One sign not exceeding 20 square feet in area at each entrance from a street to identify a residential subdivision or multifamily development;**

**One sign not exceeding 20 square feet in area which identifies a building such as a school, fire station, church or business other than a home business.**

**10.15.6 One freestanding one or two sided sign not to exceed 25 square feet shall be allowed on a lot.**

**10.15.7 One building mounted sign not to exceed 10 square feet may be mounted on each building face having a customer entrance.**

**10.15.8 One “Open” flag and one U. S. Flag not to exceed three feet by five feet each shall be permitted on a lot and not counted as sign area and not need a sign permit.**

**10.15.9 One free-standing one or two sided sign not to exceed 50 square feet may be located at the entrance road to an industrial park or business subdivision, for the identification of the park and its occupants.**

**10.15.10 No free-standing sign shall exceed 20 feet in height.**

**10.15.11 A business located within the Town of Lyman may have no more than two off-premise signs which shall comply with the provisions of Title 23 MRSA Sections 1906 – 1912.**

**10.16 Solid Waste Dumpsters:**

**During construction or a special indoor or outdoor events including but not limited to fairs, concerts, or athletic events solid waste dumpsters may be placed temporarily within the district setbacks but no less than 20 feet from the property line. The unit may be placed 24 hours before the event and must be removed within 24 hour after the event. If the unit is to be located on the property for more that five (5) days it must meet the setbacks from property lines required within the district. Construction dumpsters may be placed on the property for the duration of the construction or remodel, but shall not be less than 30 feet from the property line and shall be removed at the end of construction.**

**10.17 Tent and Recreational Vehicle Parks:**

**Tent and recreational vehicle parks shall conform to the minimum requirements imposed under state licensing procedures and the following standards:**

**10.17.1 Parks shall be open only between April 14 and October 31, inclusive. From November 1 of one year to April 13 of the following year, no person shall occupy any site, the water**

service to all sites shall be turned off or disconnected, and the electrical service to all sites shall be turned off or disconnected. The owner / caretaker and there immediate family may occupy a year round dwelling on the property.

**10.17.2** All primitive sites shall have an area of at least 2,000 square feet, with an average width of 30 feet. Sites with power, water, and sewer hookups shall have an area of at least 3,000 square feet, and shall have an average width of 40 feet.

Any site located entirely or partially in the Shoreland Overlay District shall contain at least 5,000 square feet of area.

Roads, parking areas, walkways, land supporting wetland vegetation, and land below the high water line of any waterbody or tributary stream shall not be included in calculating the area of any site.

**10.17.3** Two parking spaces for passenger vehicles shall be provided for each recreational vehicle site. One parking space for a passenger vehicle shall be provided for each tent site. The parking spaces shall be within 100 feet of the site. No parking space may block walkways or interfere with traffic flow within the park.

**10.17.4** The area intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be setback 100 feet from the high-water line of water-bodies, tributary streams, or upland edge of a wetland.

**10.17.5** Tent and recreational vehicle parks shall be screened from adjacent land areas by a continuous landscaped buffer area not less than 25 feet in width containing evergreen shrubs and trees, fences and walls may be added in combination to form and effective visual barrier of not less than six (6) feet high.

#### **10.18 Yard Sales:**

Yard sales shall be permitted in all districts except Resource Protection District and shall comply with the following standards:

- a. A yard sale shall last no longer than three consecutive days and shall only be permitted once per month on a lot or a contiguous lot in the same ownership.

- b. Adequate off street parking shall be provided for customers of the yard sale. Directional signs indicating the parking area(s) shall be provided.
- c. Two off-premises signs within 500 feet of the yard sale are permitted. The signs no larger than two feet by three feet may be displayed only between the hours of 7:30 a.m. and sunset on the day(s) of the sale. Signs shall not be attached to utility poles.
- d. Yard sales shall not begin before 7:30 a.m. and not extend after sunset.
- e. No items for sale, tables or other display equipment shall be placed closer than 20 feet from the property line(s) fronting a roadway

## **10.19 Mobile Home Parks**

### **1. Mobile Home Parks**

- a. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State Laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Lyman Subdivision Standards, the provisions of this section shall prevail.

### **2. Lot Area and Lot Width Requirements:**

Notwithstanding the dimensional requirements located in Article 6 Of this Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.

- a. Lots served by individual subsurface waste water disposal systems:
 

Minimum lot area:	20,000 square feet
Minimum lot width:	100 feet
- b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services
 

Minimum lot area:	12,000 square feet
Minimum lot width:	75 feet
- c. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.

- d. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements of that district.

### **3. Unit Setback Requirements:**

- a. Structures shall not be located less than 15 feet from any boundary line of an individual lot.
- b. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within a shoreland zoning district, structures must meet all dimensional requirements of that district.

### **4. Buffering:**

If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located, and if the neighboring land is undeveloped, the park must be designed with a continuous landscaped area not less than fifty (50) feet in width, which shall contain no structures or streets. The first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park, shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

### **5. Road Design, Circulation, and Traffic Impacts:**

Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- a. Streets which the applicant, proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Lyman Subdivision Standards.
- b. Streets, which the applicant proposes to remain private ways, shall meet the following minimum geometric standards.
  - 1. Minimum right-of-way width: 23 feet
  - 2. Minimum width of traveled way: 20 feet
- c. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets.

**Any street within a park with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.**

- d. No individual lot in the park shall have direct vehicular access onto an existing public street.**
- e. The intersection of any street within the park and an existing public street shall meet the following standards**
  - 1. Angle of intersection: The minimum angle of intersections shall be 75°**
  - 2. Maximum permissible grade within 75 feet of an intersection shall be 2%.**
  - 3. A Minimum sight distance of 10 feet for every mile per hour of the posted speed limit on the existing roads shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 ½ feet above the pavement and the height of object 4 ¼ feet.**
  - 4. Distance from other intersection. The centerline of any street within a park intersection an existing public street shall be no less than 125 feet from the centerline of any other street intersecting that public street.**
- f. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generated shall be based on the Trips Generated Manual (latest edition) published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.**

**6. Ground Water Impacts:**

- a. Assessment Submitted. Accompanying the application for approval of any mobile home park, which is not served by public sewer, shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology and shall contain at least the following information:**
  - 1. A map showing the basic soils types.**

- 2. The depth to the water table at representative points throughout the mobile home park.**
- 3. Drainage conditions throughout the park.**
- 4. Data on existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.**
- 5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall at a minimum, include a projection of post development nitrate-nitrogen concentrations at any well within the mobile home park, at the mobile home park boundaries and at a distance of one thousand (1000) feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake or pond projections of the development's impact on groundwater phosphate concentrations shall also be provided.**
- 6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.**

**b. Standards for Acceptable Ground Water Impact:**

- 1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation.**
- 2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.**
- 3. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, that applicant shall demonstrate how water quality will be improved or treated.**
- 4. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.**



- c. **Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be include as a note on the plan.**

**7. Conversion to Another Use:**

**No development or subdivision which is approved under this section as a mobile home park, may be converted to another use without the approval of the Lyman Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements of this ordinance. The Mobile Home Park plan is to be recorded at the York County Registry of Deeds and filed with the Town of Lyman and must include the following restrictions as well as any other notes or conditions of approval.**

- a. **The land within the park shall remain in a unified ownership and the fee to lots or portions of the lots shall not be transferred.**
- b. **No dwelling unit other than a manufactured housing unit shall be located within the park.**

**10.20 Multi-Family Dwelling Units**

**1. Two Family Dwelling Units**

**Lots for two-family units shall meet all the dimensional requirements for a single-family dwelling unit, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of single-family units, and the road frontage shall exceed by fifty percent (50%), the requirements of a single-family dwelling unit.**

**2. Multi-Family Dwelling Units.**

**Multi-Family (3 or more) dwelling units shall meet all of the following criteria:**

- a. **Lot area shall be equal to that required for the equivalent number of single-family dwelling units.**
- b. **Minimum road frontage shall be as required under Section 6.2**
- c. **Lots for multi-family dwellings units shall meet all the dimensional requirements for single-family dwellings.**
- d. **No building shall contain more than six (6) dwelling units.**

- e. All multi-family dwellings shall be connected to a common water supply and distribution system, either public or private at no expense to the Municipality.
- f. All multi-family dwelling units shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance and the Maine State Subsurface Wastewater Disposal Rules.
- g. No parking area shall be located within the required yard areas.

#### **10.21 Telecommunications Towers:**

**Telecommunications towers are allowed in the General Purpose and Commercial/Residential Zoning Districts with Site Plan Review Approval.**

- 1. Telecommunication towers shall not exceed a total of 190 feet from existing grade within 100 feet of the centerline of the tower.
- 2. All telecommunication towers shall allow for co-location at industry standards and industry rates.
- 3. No tower shall be located within two (2) miles of an existing tower that has co-location space available.
- 4. Towers must be setback 125% of their total height from a dwelling unit and property line.
- 5. The Planning Board may require additional conditions or information as it see fit.
- 6. The applicant shall show on a plan or topographical map the location of all telecommunication towers with latitude, longitude, height and type of structure within the Town of Lyman and within three (3) miles of the Town of Lyman boundaries. Also show which of the listed towers the applicant has ownership or is, or will be co-located on.

### **Article 11 Definitions**

**In this Ordinance the following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed.**

**Abutter:** A person who owns adjacent land or land across a street right-of-way or waterbody from the subject lot.

**Accessory Use or Structure:** A use or structure of a nature customarily incidental and subordinate to those of a principal use or structure.

**Acre:** A measure of land area containing 43,560 square feet.

**Activity:** The specific use or uses to which a property or structure is put.

**Aggrieved Person:** The Board of Selectmen, or a person or persons whose land or structure is or would be adversely affected by the granting or denial of a permit or variance under this Ordinance or a person whose land abuts land for which a permit has been granted.

**Agriculture:** (1) - Limited to the raising and sale of crops and plants, out of doors.

**Agriculture:** (2) – The business of producing or raising plants and crops, including gardening as a commercial operation with or without the use of a greenhouse.

**Assisted Living / Elderly Congregate Housing:**

A type of living accommodation, including multiple individual room(s) or units, to be occupied by persons over 60 years of age. In the case of couples, at least one of the two has to be sixty years of age in a residential shared living environment. Such construction may include an individual room or individual rooms, either of which shall be combined with shared community space.

Assisted Living and Elderly Congregate Housing shall be certified by the State of Maine Dept. of Human Services as elderly supportive housing or as an assisted living facility.

Unit is defined as a single unit that has living, sanitary, sleeping and cooking facilities. Units shall not exceed 550 square feet in size.

Room(s) are defined as having living and sleeping areas with sanitary facilities without cooking facilities. Rooms shall not exceed 360 square feet in size.

**Automobile Graveyard:** A yard, field or other outdoor area used to store for three (3) or more unregistered or uninspected motor vehicles, as defined in Title 29A M.R.S.A. section 101, subsection 42, or parts of the vehicles. This use also must meet the standards set forth in Title 30 A M.R.S.A. sections 3701, 3752 & 3753. This use also requires a permit from the Board of Selectmen.

- Automobile Recycling Business:** As defined in Title 29A M.S.R.A. section 101, subsection 42 and in Title 30 A, M.S.R.A. section 3701, 3752 & 3753. This use also requires a permit from the Board of Selectmen.
- Auto Repair Garage:** A business establishment where motor vehicles and / or their related parts are repaired, reconditioned, rebuilt or painted.
- Auto Service Station:** A place where gasoline, or any other automobile engine fuels, kerosene, or motor oil and lubricants or grease (for the operation of motor vehicles) are retailed directly to the public on the premises. The sale of minor accessories and the servicing and minor repair of automobiles may be included. The storage of unlicensed vehicles or body, frame, or fender straightening and repair shall not be permitted as part of this use.
- Average Finished Grade:** Height of structure is based on the average of finish grade taken from six (6) points within 15 feet of the structure, to the highest point of the roof. The Code Enforcement Officer may use additional points to make his/her determination.
- Back Lot:** A lot of land that is not bordered by a public road or private way. A back lot must have access across a frontage lot by way of an easement. See Section 6.3.2
- Basement:** A portion of a building partly underground, but having less than half of it's vertical distance between the foundation footing and top of the foundation below the average grade of the adjoining ground.
- Bank / Financial Institution:** A facility offering standard banking services, with or without a drive-up service, this term shall include credit unions.
- Bed & Breakfast Inn:** A business conducted in a building, containing a dwelling unit occupied by a resident manager and his/her family. Guest rooms shall not to have their own kitchen facilities. Meals may be provided to guests.
- Bottle Club:** See Title 28-A M.S.R.A. Section 124 sub-section 161

**Buffer:** A condition specified by the Planning Board to lessen the impact of a land use on abutters. Examples include: requiring the entrance road to be off set from a nearby property owner's driveway; requiring a commercial property owner to shield parking area lights to minimize distraction to neighbors. These conditions of approval are included in the Site Plan Review Permit issued by the Planning Board.

**Building:** A structure for the support, shelter or enclosure of persons, animals goods or property of any kind.

**Building Height:** The vertical distance between the highest point of the roof and the average finished grade of the ground adjoining the building. (See Average Finished Grade)

**Business Contractor:** (1) A business engaged in the provision of a service off premises, but which has an office and equipment / materials stored on the premises.

(2) Same as above but limited to three employee including the owner.

**Business Office:** A business, which provides administrative, professional or clerical services, such as lawyer, insurance agent, accountant, surveyor, planner, engineer, (etc). Business offices shall not include medical and doctors, offices.

**Campgrounds, Tent and Recreational Vehicle Parks:**

A business establishment operated as a recreational site for tents, trailers, recreational vehicles or other forms of temporary shelter between April 15<sup>th</sup> and October 31<sup>st</sup> of each year.

**Cemetery (less than 20,000 Square Feet):** A site used for the interment of the human dead, without buildings.

**Cemetery (more than 20,000 Square Feet):** A site used for the interment of the human dead with or without the use of buildings.

**Church:** A building or group of buildings arranged, designed, intended or used for the conduct of religious services, and accessory uses associated therewith.

**Club:** Any association of persons organized for social, benevolent, recreational, literary, scientific, or political purposes, whose facilities include a clubhouse area open to members and occasionally to the general public, and which is not usually engaged in activities customarily carried on by a business or for financial gain.

**Code Enforcement Officer:**

The person or persons appointed by the Lyman Board of Selectmen to administer and enforce this code. The Code Enforcement Officer may be construed to be the Building Inspector, the Plumbing Inspector, Electrical Inspector and the like where applicable.

**Commercial & Industrial Facilities**

- (1) A facility having less than 2,500 sq. feet of floor space for the assembling, fabricating, finishing, packaging or processing of goods or providing a service to the general public and having six (6) or less employees, including the owner(s) with limited retail sales allowed.
- (2) A facility having more than 2,500 sq. feet of floor space for the assembling, fabricating, finishing, packaging or processing of goods or providing a service to the general public, which may include retail or wholesale sales.

**Commercial Outside Storage:**

Outdoor, unenclosed storage for commercial operation located on the site, limited to not more than 30,000 square feet of impervious area.

**Dwelling Unit:** A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together as a family, containing living, cooking, eating, sleeping space and sanitary facilities.

**Dwelling, Single Family:**

A building designed and intended to be used exclusively for residential occupancy by one (1) or more individuals living together as a family.

**Dwelling, Two Family:**

A building designed and intended to be used exclusively for residential occupancy by two (2) families living independently of each other in separate dwelling units.

**Dwelling, Multi-Family:**

A building designed and intended to be used exclusively for residential occupancy by more than two (2) families living independently of each other in separate dwelling units, including apartment buildings and condominiums.

**Earth Moving Activities:** See Section 10.8

**Easement:** An easement is the right to use land owned by someone else for

a specified purpose.

**Essential Services:** The construction, alteration or maintenance of PUC regulated utilities. Such system may include electric distribution towers, poles, and wires, water mains and drains, sewers,

**Excavation:** Any removal of earth material from its original position.

**Family:** One (1) or more persons occupying a premises and living as a single housekeeping unit. Such unit shall not exceed five (5) persons not related by blood or marriage.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Farming:** The cultivation of soil for the production or raising of food, crops, or other valuable or useful products, including the raising or boarding of livestock and poultry for personal or commercial purposes.

**Flood Plain:** The land adjacent to a water body which have been or may be covered by a regional flood.

**Function Hall:** A business in which a room or rooms may be rented out to a variety of different groups for public and private meetings, gatherings, dances, conferences or parties. Where food and refreshments are prepared on site for use during a function. A function hall shall not be allowed to operate as a bottle club.

**Gross Floor Area:** The sum of the areas of all the floors of all roofed portions of a building, as measured from the exterior faces of the exterior walls, plus the horizontal area of any unenclosed roofed portions of a structure such as porches and decks. Within buildings areas having headroom of less than six and one half (6 ½) feet shall not be counted as gross floor area. Elevators and stairways shall be counted at each floor.

**Habitable:** Any portion of a building designed for human occupation which has a ceiling height greater than six and one half feet (6 ½) and is climate controlled.

**Health Institution:** A business such as a hospital, convalescent home or hospice which provides overnight and long term care.

**Home Day Care / Nursery School:**

A business, which provides temporary care, protection, supervision and education of children under the age of ten (10) and is licensed by the State of Maine Department of Human Services.

**Home Occupation:**

A use which is compatible with a residential use and which is customarily conducted on or in a residential structure or property and;

- (1.) is carried on by a member of members of the family residing in the dwelling unit;
- (2.) is clearly incidental to and compatible with the residential use of the property and the surrounding residential uses;
- (3.) which employs no more than two (2) persons other than family members residing in the home.

**Hotel / Motel:** A business consisting of a building or group of buildings containing single rental units made up of a room or group of rooms with facilities for sleeping and bathing. Single rental units shall be rented to transient guests for a period not to exceed 28 days. Twenty per cent (20%) of the units may have limited cooking facilities.

**Household Pets:** An animal kept for enjoyment, or as a companion such as a domestic dog, cat or bird.

**Junkyard:** A yard, field or other outside area used to store dismantle or otherwise handle:

- A. Discarded, worn-out or junked plumbing and heating supplies, electronic or industrial equipment household appliance and furniture;
- B. Discarded, scrap and junk lumber and;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel, and other scrap ferrous or nonferrous material.

As defined in Title 30-A M.S.R.A. section 3752 (4).

**Lot:** An area of land in one ownership with identifiable lot lines established by deed, plan or other instrument of record.

**Lot Coverage:** That portion of a lot occupied by structures, parking lots, patios, sidewalks or other areas which were devegetated and which are not to be revegetated.

**Lot Line:** That real or imaginary line along the ground surface and it's vertical extension which separates a lot from an abutting lot or from a street right-of-way.

**Lot of Record:** A lot which was legally created by plan or deed and recorded in



**the York County Registry of Deeds, which met the requirements of the zoning ordinance in effect at the time of recording or a lot which is located in a subdivision approved by the Planning Board and recorded in the York County Registry of Deeds.**

**Lumber Yard:** A business which supplies milled lumber and standard building supplies, wholesale or retail.

**Medical Care Facility:** A business or institution, which provides medical care to humans only on an outpatient basis.

**Manufactured Housing Unit:**

**Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein.**

**Mobile Home Park:** A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

**Municipal Facility:** A use undertaken by the Town of Lyman

**Neighborhood Convenience Store (1):**

**A business containing 2,500 sq. feet or less of gross floor area, intended to serve the day-to-day needs of a residential area with the sale of merchandise including but not limited to items such as food stuffs, meats, dairy products, nonprescription medical supplies, sanitary supplies, beer, wine etc, newspapers, home repair articles, and motor vehicle fuels. A neighborhood convenience store of this type may include a deli area for serving food with up to 35 seats.**

**Neighborhood Convenience Store (2)**

**A business containing 5,000 sq. feet or less of gross floor area, intended to serve the day-to-day needs of the area with the sale of merchandise including but not limited to items such as food stuffs, meats, dairy products, nonprescription medical supplies, sanitary supplies, beer, wine etc, newspapers, home repair articles and motor vehicle fuels. This type of convenience store may include a restaurant area for serving food.**

**Net Area:** A measure of land area (measured on a horizontal plane) which excludes any land below the high water line of a waterbody or below the upland edge of a wetland or any land beneath a street or road right-of-way.

**Net Residential Acreage:** The gross acreage available for development, minus the area for streets, or access and the areas which are unsuitable for development.

**Non-conforming:** Something which lawfully exists but does not meet the current requirements of this Ordinance because it was established or constructed before the adoption of the Zoning Ordinance on January 1, 1976 or complied with the zoning ordinance in effect at the time it was established or constructed or it received Planning Board approval at the time it was established or constructed.

**Non-conforming Lot of Record:**

A lot of record which does not meet the minimum lot size or minimum road frontage requirements of the district in which it is located.

**Non-conforming Structure:**

A structure that does not meet the current dimensional requirements established for the zoning district in which it is located, but that met the applicable requirements in effect at the time of its construction.

**Non-conforming Use:**

A use of land or structure(s) which is not currently permitted in the district but which was a permitted use at the time the use was established.

**Outdoor Recreation:** Any noncommercial recreation activity, which requires some degree of permanent structural or mechanical components for participation in the activity, such as ball fields, playgrounds, and tennis courts.

**Personal Service Business:** Barbers, hairdressers, beauticians, masseuse and tanning salons.

**Parking Space:** See Section 10.12

**Planning Board:** A board appointed by the Board of Selectmen to oversee Site Plan Review and Subdivision Regulations.

**Principal Use:** The use to which the lot is primarily devoted.

**Professional:** An individual qualified by education, training or experience.

**Professional Office:** A business engaged in providing a service on the premises, such as but not limited to cleaning or repairing personal

property, training or teaching people, veterinary practice, pet grooming, beverage container redemption center, funeral home.

**Public Utility Facility:** A building or structure necessary for the furnishing of publicly regulated utility services within the Town of Lyman.

**Recycling Facility:** A business in which materials or products are processed and stored for reuse.

**Research & Development Facility:** A business in which new products or processes are created and studied.

**Recreation Facility:** A business which provides an indoor or outdoor recreational activity including but not limited to miniature golf, racquetball, tennis, exercising, bowling, swimming, showing of movies and the exhibition of any performing arts.

**Recreational Vehicle:** A vehicle that:

1. Is built on a single chassis;
2. Contains 400 square feet or less of floor area;
3. Is self-propelled or towed by a passenger car or light duty truck; and
4. Is designed as a temporary living quarters for recreational use, camping, travel, or seasonal use, not as a dwelling unit.

**Retail Business:** A business establishment engaged in the sale of goods or services to the ultimate consumer for direct use or consumption, not for resale not for automobile oriented businesses and not including electronic, mechanical or video game arcades.

**Restaurant – Standard:** An establishment where food and drink are prepared and served to the public, and consumed while seated on the premises, and not served directly to occupants of motor vehicles.

**Restaurant – Fast Food:** An establishment where food and drink are served in disposable containers for consumption on the premises or off the premises, normally requiring a short period of time between ordering and serving during which the customer waits at a counter or in a motor vehicle.

**Right-of-Way:** The right given by one landowner to another to pass over land,

**construct a roadway, cross with utilities without actually transferring ownership.**

**Road:** A public or private roadway with a minimum right-of-way width of fifty (50) feet, which provides the principal means of access to two or more abutting properties, consisting of a bed of exposed mineral soil, gravel asphalt, or other surfacing material constructed for the repeated passage of vehicles.

**Sawmill:** A business in which logs are converted into planks, boards, etc., by machinery for later use in the manufacture of various products.

**Schools, Public & Private:** An institution for education or instruction, which is not operated for a profit, or as a business, and offers courses sufficient to qualify attendance in compliance with state compulsory education requirements.

**Schools, Vocational – Technical:** A public or private, not for profit or commercial institution for the education and training of persons in a wide array of technical, trades and skills and knowledge that can be used in the job market.

**Setback:** The minimum horizontal distance from a lot line to the nearest part of a structure.

**Setback from Water:** The minimum horizontal distance from the normal high water mark the nearest part of a structure.

**Self Service Storage Facility:** A building or structure accommodating individual storage rooms or area leased or rented to the general public exclusively for the storage of personal or business-related property, such rooms or areas being accessible though individual private entrances. The storage of chemicals, explosives, or hazardous items as defined by the National Fire Protection Association Code 704, Class 3 or 4 materials are not permitted.

**Sign:** Any device, fixture, placard, structure, that uses color, form, graphic, illumination, symbol, or writing to communicate information of any kind to the public.

**Site Plan Review:** A use which is listed in a zoning district as permitted only after review and approval by the Planning Board and/or Staff Review Committee. The Planning Board may during its review of the project set restrictions and conditions on the project, if it votes to approve the project.

**Staff Review Committee:** Is a committee appointed by the Board of Selectmen  
It's membership is listed in section 9.9 and its  
authorized to issue site plan approvals under  
section 9.9.1

**Storm Water Detention Facility:** A pond, wetland, basin, or structure, which  
collects surface run-off and discharges it at  
a measured rate as surface run-off.

**Storm Water Retention Facility:** A pond, wetland, basin, or structure which  
collects surface runoff and permits only  
infiltration of storm water into the ground,  
without a surface run-off discharge outlet.

**Subdivision:** The division of a parcel of land or creation or construction of  
dwelling units, as defined in Title 30A M.R.S.A. 4401 or as in  
acts amendatory thereto.

**Substantially Commenced:** Completion of the installation, backfilling and  
capping of the buildings foundation, or work  
completed that amounts to more than twenty five  
percent (25%) of the total project cost less site  
improvements.

**Transmission Tower:** A use which includes the receiving and transmission of  
information through the air employing equipment  
mounted on the ground and on a tower.

**Truck Terminal:** A use that provides facilities for the temporary storage of  
trucks and trailers at a commercial business. A truck  
terminal may include the transfer of goods between trailers  
and a temporary warehouse of goods between shipments. A  
truck terminal may provide facilities to inspect vehicles,  
change vehicle fluids maintain engines, and change tires, as  
well as perform standard maintenance on trucks and  
trailers.

**Warehousing:** A business engaged in the storage, wholesale, and / or  
distribution of products, goods, supplies and equipment.

**Wholesale Business:** A business engaged in the sale of goods, supplies and  
equipment for resale, and not to the retail consumer.

**Wholesale Clubs:** A business engaged in the sale of goods, supplies, and  
equipment through a membership program.

## **Town of Lyman Dog Ordinance**

### **Section 1: Purpose**

The purpose of this ordinance is to control dogs throughout the Town of Lyman in the interest of health, safety and general welfare of its residents, in addition to those contained in current state law.

### **Section 2: Definitions as used in this Ordinance**

**Dog** shall mean both male and female whether neutered or not.

**Owner** shall mean any person, firm, association or corporation owning, keeping or harboring a dog.

**At Large** shall mean off the premises of the owner and not being under the control of any person by means of personal presence and attention, or ability to manipulate and command the conduct of the dog.

**Dangerous Dog** shall mean a dog which has bitten or chased a person who was not a trespasser on the owner's premises at the time of the incident; or a dog which causes a reasonable person acting in a peaceable manner outside the owner's premises, to be put in apprehension of eminent bodily harm by attacking or threatening to attack that individual or individual's domestic animal; or a dog who has damaged the property of any person.

**Nuisance** shall mean a dog which by loud, frequent, and habitual barking, howling or yelping, disturbs the peace.

### **Section 3: License Required**

Licensing of all dogs and kennels shall be in accordance with this section and the current laws of the state of Maine.

Each owner or keeper of a dog shall, on or before January 1 annually, or at such time the dog becomes 6 months old, license the dog in the Town Clerk's office. The Town Clerk shall not issue a license for any dog until the applicant has filed proof that the dog has been immunized against rabies in accordance with rules promulgated by the Commissioner of Human Services. The license shall state the breed, sex, color and markings of the dog and name and address of the owner or keeper.

A suitable tag showing the year such license is issued shall be given with each license and must be securely attached to a collar which must be worn at all times by the dog for which the license was issued. It shall be a violation of law for any person to remove such tag or to place either collar or tag on any dog not described or for which license was not issued.



#### **Section 4: Disturbing the Peace / Nuisance**

It shall be a violation of this ordinance for an owner of a dog to allow such dog to bark, howl or yelp continuously for twenty (20) minutes or intermittently for one (1) hour or more.

#### **Section 5: Running at Large**

It shall be a violation of this ordinance for any dog, licensed or unlicensed to run at large, except when used for hunting purposes.

#### **Section 6: Sanitation**

It shall be unlawful for any person who owns, possesses or controls a dog to fail to promptly remove and dispose of any feces left by his/her dog on any sidewalk, street, beach or public owned property or private property (other than the property of the owner of the dog or a person who has consented to the presence of the dog on his/her property).

#### **Section 7: Dangerous Dog**

It shall be a violation of this ordinance for an owner to allow a dog to be a dangerous dog.

#### **Section 8: Impounding**

Any Police Officer, Animal Control Officer or Constable employed by the Town of Lyman may seize, impound or restrain any dog violating this Ordinance or State Law.

#### **Section 9: Impoundment**

Stray dogs that have been taken to the shelter currently used by the Town may be claimed by the owner after first paying an impoundment fee of \$50 to the Town, payable at the Town Clerk's Office. Upon satisfactory payment, the Town Clerk shall issue to the owner an original receipt marked "paid in full" to be presented to the shelter. The owner will also be responsible for any additional costs incurred by the animal shelter prior to reclamation. All fees are to be deposited in a separate account as required by current state law.

#### **Section 10 : Enforcement**

There shall be appointed an Animal Control Officer(s) who shall have the prime responsibility for enforcing this Ordinance. Police Officers and constables of the Town of Lyman may also enforce this ordinance.

Upon complaint by the person(s) disturbed, the Animal Control Officer or any authorized Law Enforcement Officer may investigate and give written notice to the owner or keeper of such dog that any violation(s) of this ordinance must cease. The warning shall be made part of the complaint.

### **Section 11: Penalties**

A. Any owner found in violation of Sections 4, 5 and 6 of this Ordinance shall be guilty of a civil violation, and upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) to be recovered by a complaint before the Maine District Court of York County. The owner shall be responsible for the Town of Lyman's attorney fees and costs. All fines collected shall be recovered to the use of the Town of Lyman and deposited in a separate account as required by current state law.

B. Penalties for violation of Section 7 keeping a Dangerous Dog:

1. Any person convicted of keeping a dangerous dog shall be punished by a penalty of not less than \$250 nor more than \$1,000 for the first offense.
2. Any person convicted of keeping a dangerous dog on a second offense shall be punished by a fine of not less than \$500 nor more than \$1,000.
3. Any person convicted of keeping a dangerous dog on a third or subsequent offense shall be punished by a fine of \$1,000.
4. In addition, the court may make such further order regarding the destruction, restraint or other disposition of the offending dog as the court deems appropriate.

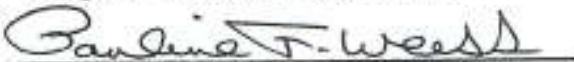
### **Section 12: Severability Clause**

If any part of this Ordinance shall be held invalid, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining parts of this Ordinance.

### **Section 13: Effective Date**

This Ordinance shall be in full force and effect upon passage.

Adopted: October 18, 2012

  
Pauline F. Weiss, Town Clerk

Date submitted to the Board of Selectmen: 7-16-12